

(1923) 04 MAD CK 0051
In the Madras High Court

Srinivasa Rao

APPELLANT

Vs

Rengasami Pillai and Others

RESPONDENT

Date of Decision : 25-04-1923

Acts Referred:

Citation : AIR 1924 Mad 326 : 76 Ind. Cas. 789 : (1923) 18 LW 523

Hon'ble Judges : William Ayling, J;Odgers, J

Bench : Division Bench

Judgement

1. This second appeal turns solely on the question whether the order of the Board of Revenue contained in Exhibit F is or is not ultra vires. We think that the decision of the lower Appellate Court is correct. The grant of the land to the appellant was made specifically liable to cancellation if it were found that it was made owing to misrepresentation, fraud, etc., and Section 17 of the Board's Standing Order No. 15 provides that nothing contained in that paragraph (whereby the order of the appellate authority is made final) should limit the power of the Board of Revenue to set aside, cancel or amend any decision in a darkhast case on being satisfied that the decision exceeded the powers conveyed by the Standing Orders to the person making the order, or that it was passed under a mistake of fact or owing to misrepresentation or fraud. It is true that the order, Exhibit F, does not set out any reasons, but it was passed on allegations which are contained in Exhibit E and these allegations are clearly allegations of misrepresentation and fraud which would be sufficient to justify the interference of the Board under the revisional powers Above alluded to. Applying the usual presumption that powers are presumed to have been properly and legally exercised, we must take it that the decision of the Board was passed on its being satisfied that these allegations were correct.

2. It is argued that it is open to the Civil Court to enquire whether, as a matter of fact, these allegations were or were not correct; The Board's revisional powers are, however, conditional on the Board of Revenue being satisfied that the decision was passed owing to misrepresentation or fraud or other cause set out

and we do not think that it is open to a Civil Court to enquire into the merits of the case and to pronounce that the decision of the Board was wrong. We think it must be taken that the order of the Board in Exhibit F was intra vires.

3. Our attention has been drawn to the decision in Secretary of State for India in Council v. Bandeppa of Kona-kondla 1 Ind. Cas. 76 : 32 M. 300 : 5 M.L.T. 31 : 19 M.L.J. 206, but that case is distinguishable, for the Board's revisional powers were not in question and the learned Judges laid stress on the fact that there was no suggestion there that the patta was issued conditionally.

4. It was further argued by Mr. Srinivasa Gopalachari that the Board's revisional powers did not extend to making a grant in favour of the respondent. The Board merely directed that this grant which had been made at one stage of the darkhast proceedings by a competent authority should be restored and we think that an order to this effect is covered by the words "to set aside, cancel or amend any decision in a darkhast case."

5. The second appeal is dismissed with costs.