

(1899) 11 MAD CK 0005
In the Madras High Court

Thandavaraya Pillai and Others

APPELLANT

Vs

Subbier and Another

RESPONDENT

Date of Decision : 07-11-1899

Acts Referred:

Citation : (1900) ILR (Mad) 483 : (1900) 10 MLJ 117

Judgement

1. We are clearly of opinion that the points of jurisdiction taken by the appellant's Vakil cannot be maintained. The suit does not relate to

Immovable property and there is nothing to show that the valuation is wrong. The only question to be decided is whether, upon the facts found, the

decision of the District Judge is justified. We have to consider the question not with reference to the substance of the charges made against the

plaintiff, but with reference to the manner in which the enquiry was conducted and the resolution of dismissal arrived at. What happened apparently

was thus--One member of the Committee initiated some sort of enquiry, received petitions and, it is said, took some evidence. The result of his

work was submitted to two other members of the Committee successively, and the three thereupon signed the yadast of 31st October 1893. By

that yadast, the plaintiff is required to present himself at the office for the purpose of an inquiry into certain charges laid against him. No date is

fixed for the inquiry, and it is not pretended that the other two members of the Committee took any part in passing the order.

2. The plaintiff took no notice of this-(order, and thereupon an-ather resolution of. the 8th July 1894 was issued, signed by the sams three

members of the Committee who signed the previous yadast. Theother two members, it is found, had the resolution sent to them, but did not-sign it.

Now it is quite clear that the plaintiff being the holder of an office can only be removed from the office by the Corporate, act of the Committee.

Generally the acts of a corporation to which the Committee may be likened must be performed at a meeting convened after due notice to all the

members of the body. There may be exceptions from this rule, but the case in which the matter to be decided involves the rights of third parties, and

a decision to their prejudice, is eminently one in which the rule should be enforced. The fact that no case can be pointed out where a different

procedure has been adopted and approved goes strongly to show that this view is the correct one. The object of the meeting of course is to bring

together the party to be affected and the person entitled to take part in the decision, so that the decision may be arrived at after a full and fair

discussion, the party affected having an opportunity of putting before all his Judges his view of the case, It is obvious that this effect cannot be

attained if the business is transacted by a mere circulation of the papers. In the present case it is clear that there was nothing in the nature of a

judicial inquiry. If there "was any inquiry at all, which is doubtful, there was certainly no inquiry by the Committee as a body. Admittedly, there was

no meeting, and as there was no meeting, the plaintiff had no proper opportunity of defending himself. We cannot regard the yadast as a sufficient

direction by the Committee to appear and answer the charges made against him.

3. The yadast did not proceed from the Committee, and it gives no date for the proposed inquiry. On this ground, we uphold the decree of the

lower Appellate Court and dismiss the appeal with costs.