(1915) 09 MAD CK 0009

In the Madras High Court

The Raja of Pithapuram through M. Subbarayadu Garu, Dewan and Authorised Agent — APPELLANT

Vs

Jonnalagodda Venkatasubba Row — RESPONDENT

Date of Decision : 13-09-1915

Acts Referred:
Madras Estates Land Act, 1908 — Section 52

Citation : AIR 1916 Mad 1092 : 31 Ind. Cas. 93

Hon'ble Judges : Seshagiri Aiyar, J;Napier, J

Bench : Division Bench

Judgement

1. The defendant was let into possession before the Madras Estates Land Act under Exhibit III which fixed the rent at Rs. 221 per fasli. Settlement

operations began in the zemindari, and the Settlement Officer recommended that a rent of Rs. 394 should be levied on the holding.

2. Consequently in July 1907 the defendant agreed to pay Rs. 394 and odd a year, as he understood that to be the recommendation of the

Settlement Officer. Meantime the Madars Estates Land Act came into force, and the defendant became a permanent tenant. After the first year

was over, disputes arose regarding the rate of rent. Nothing was paid for Fasli 1318. Then the officials of the zemindari suggested that the rent

should be brought down to Rs. 285. The defendant agreed to this, but stipulated that this rate should not apply to Fasli 1318. The defendant paid

at the rate of Rs. 285 for Faslis 1318, 1319 and 1320. The present suit is to recover the balance due on the footing of the rent agreed in July

1907.

3. The Deputy Collector gave the plaintiff a decree for rent at the rate claimed by him. The District Judge held that he is not entitled to anything

more than 285 rupees a year. We think the lower Appellate Court is right. It was argued before us that as the only binding agreement was that

entered into in July 1907, u/s 52 of the Act, it is enforceable for the suit faslis. We are unable to uphold this contention. Chapter IV deals with

permanent occupancy ryots. The agreement come to at a time when the defendant was only a yearly tenant cannot apply to his changed status.

Further, we are of opinion that Section 52 only applies to pattas and muchilihas exchanged since the Act came into force. Under the old Act,

pattas and muchilikas remained in force only for a year and we see no ground for giving retrospective operation to Section 52. The only provisions

which enable Courts to fix the rent are contained in Sections 27 and 28. There were payments at the rate of Rs. 285 for a number of faslis. This

was in pursuance of a compromise arranged between the parties. Although there were disputes regarding some unessential particulars, we think

that the parties were agreed on the main question as to fixing the rent at Rs. 285. This was the amount lawfully paid in faslis 1318 to 1320 and was

lawfully payable in the subsequent fasli u/s 28 of the Act.

4. The District Judge is, therefore, right in holding that the plaintiff is not entitled to anything more than Us. 285 for the suit faslis.

5. We dismiss the second appeal with costs.

6. Mr. Ramadoss''s client agrees to pay the interest on the arrears due, if it has not been already paid.

7. The memorandum of objections is also dismissed with costs.