

(1909) 12 MAD CK 0031
In the Madras High Court

Veerabadran Achari and Another

APPELLANT

Vs

Suppiah Achari and Another

RESPONDENT

Date of Decision : 13-12-1909

Acts Referred:

Citation : (1910) ILR (Mad) 488 : 5 Ind. Cas. 477

Hon'ble Judges : Arnold White, C.J.;Krishnaswami Aiyar, J

Bench : Division Bench

Judgement

1. This is a suit relating to certain lands alleged to form part of the emoluments belonging to the office of carpenter in certain villages. The lower Courts have held that the jurisdiction of the Civil Courts is barred u/s 21 of Act fit of 1895. Section 21 states that no Civil Courts shall have authority to take into consideration or decide any claim to succeed to any office specified in Section 3 etc.

2. The question is, whether this is an office specified in Section 3. Section 3 of the Act enumerates four classes. Clause 3 speaks of other hereditary village offices in proprietary estates except the offices forming class 4 below. Class 4 no doubt deals with hereditary offices of village artisans and village servants such as the village carpenter. But we must construe Clause 3 and Clause 4 together, and if in class 3 we find that in the case of hereditary village offices in proprietary estates the offices named in class 4 are excepted, we must construe Clause (4) to mean that the Act applies to the hereditary office of village artisans, such as carpenter etc., only in villages other than proprietary estates.

3. The plaintiff's claim is to hold the office of village carpenter in three villages. As regards the offices in the zemindari villages it is clear from what we have said already that the jurisdiction of the Civil Court is not ousted. As regards the third office it is stated to be in an in a village, a proprietary estate. The office of carpenter is not, one of the offices to which either the Madras Village Cess Act of 1893 or the Madras Proprietary Estates Village Service Act of 1894 is applicable; and as it is not an office in a village oilier than a proprietary estate Clause 4 of

Section 3 is inapplicable to the office in the inam village. Pichuvayyan v. Vilakkudayan Asari 21 M.k 134 and Palamalai Padayachi v. Shanmuga Ausari 17 M.k 302, are decisions under Regulation VI of 1831 and not under Act 111 of 1895. Soundara Pandia Thevan v. Velathiappa Thevan 26 M.k 4900 relates to the office of Ambalam falling within Clause 3 of Section 3 of the Act and not within the exception in that clause. They have no application to this case. We regret there is no appearance for the respondents, but on the best consideration we have been able to give the matter, we think the Courts below are wrong in declining to entertain the suit. We reverse the decrees of the Courts below and remand the case to the Court of first instance. Costs will abide and follow the event.