

(1946) 01 MAD CK 0003
In the Madras High Court

Vennety Satyanarayana

APPELLANT

Vs

Pydimarri Satyanarayana, Managing Director of Andhra
Pracharini Ltd.

RESPONDENT

Date of Decision : 15-01-1946

Acts Referred:

Citation : AIR 1946 Mad 320

Hon'ble Judges : Byers, J

Bench : Division Bench

Judgement

Byers, J.—It follows from what has been said by Mockett J. in Moothaliandam Chetty v. Venkatesam Chetti AIR 1945 Mad. 388 that the

law applicable to the plaintiff's suit for eviction was the House Rent Control Order as it stood in its unamended form at the time of the institution of

the suit in April 1944. The amendment of Section 7-A in July is said to have taken away from the plain, tiff the right to get a decree in eviction; but

with all due respect to the learned Judge who decided the Case in H.Y. Mahmood v. Kerala Corporation AIR 1945 Mad. 181. I think the learned

District Judge was wrong in his view that the right of the plaintiff to get a decree for eviction was in any way affected. The Madras House Rent

Control Order, 1941, was passed in exercise of the powers conferred by Clause (bb) of Sub-Rule (2) of Rule 81, Defence of India Rules, which

have been delegated by the Central Government to the Provincial Government, and the rule contemplates an order to provide inter alia for

preventing the eviction of tenants and sub-tenants from such accommodation in specified circumstances."" It cannot be said that these words are

wide enough to deprive the civil Courts of their jurisdiction to pass decrees; all that the rule contemplates is the control of the relief of eviction. Mr.

Raghava Rao contended that what the plaintiff should have done after validly instituting the suit and finding that the position had been changed by the amendment of July 1944 was to withdraw his suit and then apply to the Collector for an order of eviction; but although the plaintiff might have done this, there was in my view nothing to prevent him from proceeding to a decree if he chose to do so in the hope that he would be able to execute it when the ban imposed by the Control Order had been lifted. It may be that the plaintiff could see that under the amended order he would have little or no chance of succeeding in evicting his quondam tenant, but the section does not prevent him from obtaining the decree in the hope that he may be able to execute it later on. As Mr. Raghava Rao points out the question is now of little more than academic interest because as things stand a decree cannot be executed.

2. In the result the appeal is accepted, the decision of the lower appellate Court is set aside, and the decree for eviction passed by the trial Court is restored with costs throughout. (Leave refused.)