

(1901) 11 MAD CK 0019
In the Madras High Court

Viraraghava Ayyangar

APPELLANT

Vs

Kanagavalli Ammal

RESPONDENT

Date of Decision : 01-11-1901

Acts Referred:

Citation : (1902) ILR (Mad) 503

Hon'ble Judges : Bhashyam Ayyangar, J;Benson, J

Bench : Division Bench

Judgement

1. We doubt whether the failure to state the place where the distrained property is kept can ever be a ground for a suit u/s 18 of the Rent Recovery Act to set aside the distraint. The appropriate remedy seems rather to be, u/s 17 of the Rent Recovery Act, to apply to the Collector for an order to restore the distrained property to the owner, if such omission was a material irregularity. However that may be, we are satisfied that, in the present case, in which the property distrained consisted of some small jewels, the statement that they were "with the distrainer" was a sufficient statement of the place where they were kept, within the meaning of Section 15 of the Act. It is difficult to see what more information the plaintiff could have required for any practical purpose. Moreover, this objection was not taken before the Deputy Collector or even in the grounds of appeal to the District Judge, a fact which shows clearly enough that it was of no real materiality in the eyes even of the plaintiff.

2. As the District Judge decided the appeal on this preliminary point, we set aside his decree and remand the appeal for disposal according to law. Costs in this Court will abide and follow the result.