
(1939) 10 MAD CK 0055
In the Madras High Court

Viswanadhula Gurayya and Another

APPELLANT

Vs

Danturthi Venkataratnam

RESPONDENT

Date of Decision : 19-10-1939

Acts Referred:

Citation : (1940) 51 LW 177 : (1940) 1 MLJ 223

Hon'ble Judges : Horwill, J

Bench : Division Bench

Judgement

Horwill, J.—The respondent to this petition brought a suit for rent. Certain objections were taken and issues framed. The matter was then brought up to this Court in revision and the then learned Chief Justice allowed the revision petition in part and remanded the suit to the lower Court for fresh disposal.

2. After remand, the defendants put in an application to file an additional written statement to the effect that the Court had no jurisdiction by virtue of the passing of Act XVIII of 1936 by the provisions of which the petitioners became ryots of land situated within an estate, within the meaning of the Madras Estates Land Act, and that therefore a suit for rent would lie only in a Revenue Court. That petition was dismissed on the ground that the plea had been raised too late.

3. It seems to have been admitted even in the lower Court - and it certainly has been here - that the rent is payable on land lying within an "estate". That being so, the Court having jurisdiction would be a Revenue Court; and the only question that arises in this petition is whether the Court that had jurisdiction to entertain the suit, lost jurisdiction subsequently on account of the passing of the Act. It is argued that if a Court had lawful seisin of the matter, it could not lose it merely because of the passing of a subsequent enactment, unless there is an express provision depriving Courts of jurisdiction in pending suits. Such a provision one does not find in Act XVIII of 1936. Two cases have been discussed before me bearing on this point. One is Marneni Kondappa Naidu and Another Vs. Pamidi Marri Mahalakshamma and Another, , which was decided by a Bench of this Court, in which the judgment was delivered by Venkatasubba Rao, J. That

was a case in which there had been a stay of pending Letters Patent Appeal because of Section 127 of the 1934 Act. It was taken up for hearing again only after the passing of Act XVIII of 1936. Section 13 of that Act provides that all proceedings stayed u/s 127 of the 1934 Act shall be disposed of as if the Act of 1908 as amended by the 1934 and 1936 Acts had been in force at the original institution of the proceedings. The learned Judges could therefore have decided the case on that point; but although Venkatasubba Rao, J., refers to Section 3 in passing, the learned Judges preferred to go beyond the narrow limitations of Section 13 and to decide the case on a much broader principle of law. Venkatasubba Rao, J., says:

By reason of the new definition of the word "estate", the village must be deemed to have always and throughout been an estate.

4. That means that even though the suit was filed before the passing of the Act, the Court must be deemed to have had no jurisdiction to entertain the suit and that the plaint had to be returned for representation to a Revenue Court. That was what was actually ordered in that case. In *Peravalli Kotayya and Others Vs. Ponnappalli Ramakrishnayya and Others*, , Venkataramana Rao, J., considered a case in which there had been no stay u/s 127 of the 1934 Act and to which therefore, Section 13 of Act XVIII of 1936 did not apply. Venkataramana Rao, J., came to the conclusion that the land was an "estate" and that the defendants were ryots; and he drew the conclusion that in spite of the fact that the Civil Court had jurisdiction when the suit was filed, it ceased to have jurisdiction after the Act was passed. He therefore ordered the lower Court to return the plaint for re-presentation to the Revenue Court. Although I may not be strictly bound by the conclusions in either of these cases, they are given in carefully considered judgments which I respectfully prefer to follow. In the present case the lower Court therefore ceased to have jurisdiction after the passing of the Act; and when the attention of the Court was drawn to the fact that it had no jurisdiction, it was bound to stop the case and return the plaint.

5. The petitioners have however been guilty of laches and much of the expenses of this litigation has been due to them. When the prior earlier Revision Petition was filed, no objection was taken on the ground of want of jurisdiction, although the Revision Petition was heard and decided after the Act was passed. In allowing this petition, therefore, I order that the petitioners should pay the costs of the suit incurred in the lower Court up to date and the costs of the prior Civil Revision Petition. There will be no order as to costs in this Court. The decree of the lower Court is set aside and the lower Court ordered to return the plaint to the respondent for presentation to a Revenue Court.