

as the agent of the devaswam. Consequently this circumstance will not confer on him a right to sue except in the circumstances I have mentioned.

I agree that the appeal should be decreed and the suit dismissed with costs.

**NOTES.**

**[URALARS—REPRESENT THE DEVASWAM—**

Decree obtained against the Uralars of a *Devaswam* is binding on the future representatives of the *Devaswam* in the absence of fraud or collusion :—(1886) 9 Mad. 473 where the Anandravans were held bound by the decree against the Uralars. See (1890) 1 M. L. J., 390, where the decree obtained against the Uralars of a temple cannot be set aside by a person having a reversionary Uraima right.

**II. CO-SHARERS WHEN ADDED AS DEFENDANTS—**

“ It is the practice in India to implead as defendants persons who should properly be made parties as plaintiffs, but who have refused to concur in the suit ” :—4 Mad. 143.

In (1889) 17 Cal. 160 residence in a distant place was held no ground to implead co-sharers as party defendants.

In (1887) 9 All. 486 it was held, reversing the lower Court's decision, that the representatives were not necessary party-plaintiffs to a suit for recovery of a debt of the partnership.]

**[144] APPELLATE CRIMINAL.**

*The 9th September, 1881.*

PRESENT:

MR. JUSTICE KINDERSLEY AND MR. JUSTICE MUTTUSAMI AYYAR.

Virasami Mudali

*against*

The Queen.\*

*Section 177† Indian Penal Code—“ Legally bound,” meaning of.*

To make a false entry in a diary kept by a Government servant and sent to his official superior in pursuance of a departmental order is an offence within the meaning of Section 177 of the Indian Penal Code.

THE facts and arguments in this case appear in the Judgment of the Court (KINDERSLEY and MUTTUSAMI AYYAR, JJ.).

*Parthasaradi Ayyangar and Rangachari for Petitioner.*

\* Petition 348 of 1881 against the sentence of A. C. Tate, Assistant Magistrate of South Arcot, dated 21st February 1881.

†[Sec. 177:—Whoever, being legally bound to furnish information on any subject to any public servant, as such, furnishes, as true, information on the subject which he knows or has reason to believe to be false,

shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both; or, if the information which is legally bound to give respects the commission of an offence, or is required for the purpose of preventing the commission of an offence, or in order to the apprehension of an offender, with imprisonment of either description for a term which may extend to two years, or with fine, or with both.]

**Judgment.**—In this case an officer of the Salt Revenue Department made a false entry in the diary, which he submitted to his official superior, to the effect that on a certain date he was on duty at a certain place, where in truth he was not. The question is whether he was legally bound, within the meaning of Section 177 of the Penal Code, to give information on the subject in question. It does not appear that he was required to do so by any legislative enactment. But admittedly the diary was kept and sent to his superior in pursuance of a departmental order which the accused was bound to obey.

Following the proceedings of this Court of the 20th November 1862 and of the 21st December 1871 (6 M. H. C. R., App. xlviii) we hold that the accused was legally bound to furnish information to his superior officer on the subject, on which he furnished false information, and that the offence was punishable under the Penal Code, Section 177.

This petition is dismissed.

**NOTES.**

[This view was dissented from in (1891) 14 Mad. 484. See (1880), 1 Weir 106; and 6 M. H. C. R. App. 48.]

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**[145] APPELLATE CIVIL.**

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*The 9th September, 1881.*

PRESENT :

SIR CHARLES A. TURNER, KT., CHIEF JUSTICE, AND MR. JUSTICE  
INNES.

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Venkatachellam Chetti.....(Plaintiff)

*and*

Kadumthusi..... Defendant.\*

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*Rent Recovery Act—Tender of patta by post.*

Tender of a patta through the post to a tenant is invalid under the provisions of Madras Act VII of 1865.

THE question in this case referred for the decision of the High Court under Section 617† of the Code of Civil Procedure was “whether a tender of a patta to a tenant through a postman is a legal tender within the meaning of the Rent Recovery Act” (Madras Act VIII of 1865).

The patta, enclosed in a sealed letter bearing the tenant’s address with a note subscribed to the effect that the letter contained a patta to be accepted by the tenant for a certain year for the lands in his possession, was offered by the postman to the tenant but declined.

Section 7† of the Rent Recovery Act prescribes that the tender of the patta shall be sufficiently evidenced by such proof of service as is provided for by

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\* Referred Case No. 11 of 1881 stated by S. Kristnasawmi Ayyar, District Munsif of Sivaganga, in Suit No. 172 of 1881.

† [q. v. supra, 3 Mad., 128].