

the only procedure prescribed for sales for arrears of revenue is that contained in section 42, which enacts that the lands shall be sold free of all incumbrances.

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Then section 44 provides that it shall be lawful for a Collector to sell the whole or any portion of the land of the defaulter. These words, in our opinion, clearly mean the whole or any portion of the holding of the defaulter and not merely the whole or any portion of the fraction of the holding on which the arrears have actually accrued.

The object of making the provision so wide in its terms is the necessity of securing the public revenue.

For the same reason we are of opinion that the words "the land," in section 2, where it is said that the land, &c., shall be regarded as the security for the public revenue, mean the lands of the holding and not the portion of land in respect of which the arrears may accrue.

The appeal fails and is dismissed with costs.

APPELLATE CIVIL.

Before Mr. Justice Muttusami Ayyar and Mr. Justice Best.

PALANI (DEFENDANT NO. 1), APPELLANT,

v.

PARAMASIVA (PLAINTIFF), RESPONDENT.*

1890.
Aug. 12.

Regulation XXV of 1802 (Madras), s. 12—Revenue Recovery Act II of 1864 (Madras) ss. 32, 41—Rent Recovery Act—Act VIII of 1865 (Madras), ss. 3, 9.

The purchaser at a revenue sale is *prima facie* entitled to claim the faisal rate of rent.

SECOND APPEAL against the decree of V. Rangayyar, Subordinate Judge of Salem, in appeal suit No. 120 of 1888, confirming the decree of D. Iyyavayyar, District Munsif of Namkal, in original suit No. 410 of 1887.

Suit by the plaintiff, a mittadar, who had purchased the land now in question at a revenue sale, to enforce the acceptance by the defendants of pattas for fasli 1294, containing a stipulation

* Second Appeal No. 1037 of 1889.

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for the payment of rent at the faisal rate. The defendants pleaded that they were only liable to pay rent at a lower rate in accordance with a cowle, to which it was not alleged that the plaintiff had been a party.

The District Munsif, and, on appeal, the Subordinate Judge, decreed in favor of the plaintiff. The following cases were alluded to in their judgments:—*Ramchandra Mankeshwar v. Bhimrav Ravi*(1), *Adimulam Pillai v. Kovil Chinna Pillai*(2), *Venkata-gopal v. Rangappa*(3).

The defendants preferred this second appeal.

Sadagopacharyar for appellant.

Bhashyam Ayyangar and *Desikacharyar* for respondent.

JUDGMENT.—It is argued that the lower Court is wrong in holding that, as purchaser at the revenue sale, respondent is entitled to demand the faisal rate. Having regard to section 12 of Regulation XXV of 1802 and to the provisions of sections 32 and 41 of the Revenue Recovery Act, the purchaser at a revenue sale is *prima facie* entitled to demand the faisal rate. In the present case the tenant (now appellant) has cited no evidence to show the circumstances under which the lower rent was accepted, or that the purchaser was under any legal obligation to accept such lower rate.

This second appeal is dismissed with costs.

APPELLATE CIVIL.

Before Mr. Justice Muttusami Ayyar and Mr. Justice Shephard.

NATESAYYAN (PLAINTIFF), APPELLANT,

v.

NARASIMMAYYAR (DEFENDANT), RESPONDENT.*

Minor—Suit against guardian of a minor—Immaterial irregularity—Minor's interest bound.

In a suit by an adopted son, after the death of his adoptive father, to recover ancestral land sold in execution of a decree against his adoptive mother therein

(1) I.L.R., 1 Bom., 577.

(2) 2 M.H.C.R., 22.

(3) I.L.R., 7 Mad., 365.

* Appeal No. 182 of 1888.