

REFERENCE
UNDER STAMP
ACT, s. 49.

under Stamp Act, s. 49(1), Pattat Ambadi Marar v. Krishnan(2), Negotiable Instruments Act, s. 46, and Proceedings of the Board of Revenue, No. 1434, dated 24th April 1884.

Counsel were not instructed.

JUDGMENT.—We reply to the reference that the document is a bond, See *Reference under Stamp Act, s. 49(1)*, and section 3 of the Stamp Act.

APPELLATE CRIMINAL.

*Before Sir Arthur J. H. Collins, Kt., Chief Justice, and
Mr. Justice Parker.*

QUEEN-EMPRESS

v.

RAMAYYA AND OTHERS (PETITIONERS).*

Penal Code, ss. 97, 146—Self-defence—Rioting—Unlawful distraint.

A landlord who had not tendered to his tenant such a patta as the latter was bound to accept under the Madras Rent Recovery Act, distrained his cattle for arrears of rent, the assistance of the Police having been procured for the purpose. The tenant, with the assistance of eleven other persons, forcibly obstructed the removal of the cattle which had already been actually seized and driven for some yards. They were charged with the offence of rioting and convicted :

Held, that the conviction was right.

PETITION under Criminal Procedure Code, ss. 435, 439, praying the High Court to revise the proceedings of the Additional Deputy Magistrate of Kistna in criminal appeal No. 72 of 1888, presented against the convictions of petitioners under Penal Code, s. 146, by the Second-class Magistrate of Bandar town in calendar case No. 579 of 1888.

The accused preferred this revision petition.

Pattabhiramayyar for petitioners.

The facts of the case appear sufficiently for the purpose of this report from the following

JUDGMENT:—The facts found are that the complainant, the landlord, had distrained the moveable property of first accused (his

(1) I.L.R., 10 Mad., 158.

(2) I.L.R., 11 Mad., 290.

* Criminal Revision Case No. 299 of 1889.

tenant) under the Rent Recovery Act, for arrears of rent, whereupon the first accused, with the assistance of eleven others, forcibly removed the distrained property. It is also found that the patta tendered by the landlord contained provisions which were illegal and was not such a patta as the first accused would have been bound to accept.

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The accused relied upon the Proceedings of the High Court of 19th November 1875(1) as justifying their action. It was there held that a landholder in distraining moveable property under the Rent Recovery Act acted upon his own responsibility, and if he attempted to seize the goods of his tenant when no rent was in arrear, mere obstruction to the seizure was not an offence. The Magistrate had there treated the case as one of obstruction to legal process.

In this case, however, there is evidence that the cattle had been actually seized, the attachment lists prepared, and the cattle driven some 20 yards before the first accused and his men came up and forcibly obstructed the removal of the cattle off the ground. Moreover the distraint itself was carried out under section 19 of the Rent Recovery Act, the assistance of the Police having been procured for the purpose.

It appears to us that under such circumstances the use of force to rescue the cattle was clearly unlawful, and that the cattle having been attached there was no right of private defence of property. If the attachment had been made unlawfully, the first accused should have had recourse to the properly constituted authorities.

We must dismiss this petition for revision.

(1) 8 M.H.C.R., App. XII.