

RAVETHA  
KOUNDAN  
v.  
MUTHU  
KOUNDAN.

or succession to, certain hereditary offices and their emoluments, but otherwise does not interfere with the ordinary jurisdiction of the regular Courts. This is not such a suit, and we see no reason to hold that by that Regulation the ordinary Courts are debarred from entertaining a suit to declare what are the emoluments of the office.

Nor will the plea that this point has already been decided by a Revenue Court of concurrent jurisdiction avail, for the Revenue Courts have not authority under Regulation VI of 1831 to determine such a suit as the present.

[Their Lordships next proceeded to dispose of various other questions raised on this second appeal and passed a decree dismissing the second appeal with costs.]

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## APPELLATE CIVIL.

*Before Mr. Justice Parker and Mr. Justice Wilkinson.*

SAMINATHA (PLAINTIFF), APPELLANT,

*v.*

VIRANNA (DEFENDANT), RESPONDENT. \*

1889,  
August  
12, 13, 20.

*Rent Recovery Act—Act VIII of 1865 (Madras), s. 9—Tender of patta by post.*

A landlord sent a patta by post to his tenant, who declined to receive it:

*Held*, the tender of the patta by post was not sufficient to support a suit under s. 9 of the Rent Recovery Act.

SECOND APPEAL against the decree of T. Weir, District Judge of Madura, in appeal suit No. 532 of 1887, affirming the decree of M. Tillainayakam Pillai, Deputy Collector of Madura, in summary suit No. 31 of 1887.

Suit by a landlord under the Madras Rent Recovery Act, s. 9, to compel the acceptance of a patta by the defendant. The lower courts decreed in favor of the defendant, and the plaintiff preferred this second appeal.

*Subramanya Ayyar* for appellant.

*Bhashyam Ayyangar* for respondent.

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\* Second Appeal No. 384 of 1888.

The facts of this case appear sufficiently for the purpose of this report from the judgment of the Court.

SAMINATHA  
v.  
VIRANNA.

JUDGMENT.—This is a suit under s. 9, Act VIII of 1865, by a landlord to enforce the acceptance of a patta. The patta enclosed in a registered cover bearing the tenant's address and a superscription that the letter contained a patta for the tenants' acceptance was offered by the postman to the tenant, who declined to receive it. Both the lower courts have held that the landlord has not complied with the requirements of Act VIII of 1865 and have dismissed his suit. It is argued in second appeal that the landlord has done all that is required of him in that he has made a demand which has been refused. We are of opinion that the lower courts are right and that tender of a patta by post is not sufficient. What a landlord suing under s. 9, Act VIII of 1865, is bound to prove is (1) tender of such a patta as he is entitled to impose, accompanied by (2) a demand to accept, and (3) refusal. Tender of a patta can only be properly effected when it is presented to a person formally by the landlord or some one acting for him, and in such a manner that the tenant is at once able to ascertain whether or not it is of such a nature as the landlord is entitled to impose; the tenant must be put in a position to say whether or not he will accept the patta tendered. What the tenant in this case refused to accept was, not a patta, but a cover said to contain a patta. He was not legally bound to accept the cover tendered to him by the postman, and as we cannot impute to him knowledge of the contents of the cover, we are unable to hold that he refused to accept such a patta as the landlord was entitled to impose. Such a demand as was made in this case, if a demand at all, was a mere indefinite demand, which as was held in *Sayud Chanda Miah Sahib v. Lakshmanu Aiyangar*(1) is not sufficient to maintain a suit.

This second appeal therefore fails and is dismissed with costs.

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(1) I.L.R., 1 Mad., 45.

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