

APPELLATE CIVIL.

Before Mr. Justice Muttusámi Ayyar and Mr. Justice Brandt.

PURUSHOTTAMA (PLAINTIFF), APPELLANT,

and

RAJU (DEFENDANT), RESPONDENT.*

1887.
July 15.

*Rent Recovery Act (Madras)—Act VIII of 1865, s. 9—Joint shrotriyamdárs—
Distinct contract by tenant in respect of a share.*

The plaintiff was one of two joint shrotriyamdárs. In fasli 1288 the defendant accepted a pattá from and executed a muchalká to him in respect of the half share of the plaintiff. The plaintiff sued to enforce acceptance of a pattá and execution of a muchalká for fasli 1290 and for arrears of rent :

Held, that the suit lay without joinder of the other joint shrotriyamdár.

SECOND appeal against the decree of S. T. MacCarthy, District Judge of Chingleput, in Appeal Suit No. 18 of 1886 reversing the decree of V. Kuppusámi Ayyar, Additional District Múnsif of Poonamalle, in Original Suit No. 30 of 1885.

This was a suit to enforce the acceptance by the defendant of a pattá tendered to him by the plaintiff, and the execution by the defendant of a muchalká for fasli 1290 and to recover Rs. 267-2-7, being the amount of ayan tirvai and road-cess and interest for the same fasli.

The plaintiff alleged that he was shrotriyamdár of a moiety of the village of Súnampett and that the defendant was a mirasi tenant holding under him. The defendant pleaded *inter alia* that he was not bound to execute a muchalká, and that the pattá tendered was not a proper one, and further denied the plaintiff's title.

The Court of first instance passed a decree in favor of the plaintiff, but this decree was reversed on appeal by the District Judge on the ground that the plaintiff could not sue alone.

The plaintiff preferred this second appeal.

Rámasámi Mudaliar for appellant.

The two shrotriyamdárs have been receiving their shares of tirvai from the raiyats separately, and in fact there was an agree-

* Second Appeal 27 of 1886.

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ment by the defendant to pay the plaintiff his moiety of the tirvai now sued for.

Srirangacharyár for respondent.

The two shrotriyamdárs constitute one landlord under the Rent Recovery Act and one of them is not entitled to enforce acceptance of a pattá by the tenants in respect of the proportionate rent payable to him. *Krishnama v. Gangaráu*(1).

The Court (Muttusámi Ayyar and Brandt, JJ.) delivered the following

JUDGMENT:—It is urged by the appellant's pleader and admitted for the respondent that for fasli 1288 the respondent accepted a pattá from the appellant, and executed a muchalká in respect of the half share of the shrotriyam claimed in the present suit. This being so, there was a distinct contract and holding in respect of that share, and all that was decided in the case reported in *Krishnama v. Gangaráu*(1) was that where the tenant held the land under several shrotriyamdárs and under a joint contract, and the shrotriyamdárs might be regarded as a single landlord, then none of the shrotriyamdárs could tender a pattá for acceptance otherwise than in conjunction with the others.

We set aside the decree of the Lower Appellate Court and remand the appeal for rehearing. Costs of this second appeal will abide and follow the result.

APPELLATE CIVIL.

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

KHADAR (PLAINTIFF), APPELLANT,

and

SUBRAMANYA AND ANOTHER (DEFENDANTS), RESPONDENTS.*

*Rent Recovery Act (Madras)—Act VIII of 1865, ss. 3, 9, 79, 80—Yeomiah lands—
Unregistered holder rendering service and granting pattás—Estoppel by acquiescence
of person entitled to the yeomiah holding.*

A yeomiahdár died leaving a brother who was then out of India. Shortly before his death, he made an invalid assignment of his holding to a third person who performed the service, and granted pattás of the land. The holding was resumable

(1) I.L.R., 5 Mad., 229.

* Second Appeal No. 2 of 1886.