

BRINDAVANA of a cross-appeal. As it is, however, competent to the respondents  
 v. to support the decree on a ground which was decided against them,  
 RADHAMANI. the only effect we can give to it is to treat it as suggesting a  
 ground to be urged at the hearing of the appeal.

We dismiss it as a memorandum of objections but without costs.

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## APPELLATE CRIMINAL.

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

RAMASAMI

against

DANAKOTI AMMAL. \*

*Criminal Procedure Code, s. 145—Dispute as to right to collect rents.*

A dispute between two persons as to the right to collect rent from the tenants of an estate is cognizable under s. 145 of the Code of Criminal Procedure.

APPLICATION under s. 439 of the Code of Criminal Procedure to revise an order passed by V. Subbayar, Deputy Magistrate of Chingleput, under ch. XII of the Code of Criminal Procedure.

A dispute having arisen as to the right to collect rents between one Danakoti Ammal and Ramasami Mudali, the magistrate declared that the former was 'in possession of the right to collect rents in the village of Armanur as lessee', and that she should retain possession of such right until eviction in due course of law, citing *P. B. Deb Roy v. D. Churn Bhattacharji*(1) in support of his ruling.

Ramasami Mudali applied to quash this order as being *ultra vires*.

*Ramasami Mudali* for applicant.

Mr. *Subramanyam* and *Srirangacharyar* for the lessee.

The Court (Collins, C.J., and Parker, J.) delivered the following

JUDGMENT:—We see no reason to hold that the Deputy Magistrate was not justified in holding that there was a reasonable apprehension of a breach of the peace. The ruling in IV, Madras

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\* Criminal Revision Case No. 359 of 1888.

(1) I.L.B., 11 Cal., 413.

High Court Reports, Appendix XII, was under the Criminal Procedure Code of 1861. We think that a dispute about the right to collect the rents of lands from the tenants in possession is a dispute concerning tangible immovable property within the meaning of s. 145 of the Criminal Procedure Code.

We refuse to interfere in revision.

RAMSAMY  
v.  
DANAKOTI  
AMMAL.

## APPELLATE CIVIL—FULL BENCH.

*Before Mr. Justice Kernan, Mr. Justice Muttusami Ayyar,  
Mr. Justice Parker, and Mr. Justice Wilkinson.*

REFERENCE FROM THE BOARD OF REVENUE UNDER S. 46 OF THE  
INDIAN STAMP ACT, 1879.\*

1888.  
Sept. 7.

*Stamp Act, sch. I, arts. 25, 36—Declaration of trust—Gift.*

Where a donee was directed in an instrument of gift of certain land to maintain the donor out of the profits of the land :

*Held* that the instrument was liable to stamp duty as a gift and not as a declaration of trust.

CASE referred by the Board of Revenue under s. 46 of the Indian Stamp Act, 1879.

A document whereby a Hindu widow purported to confer all her property on a kinsman and imposed on him the duty of maintaining her from the profits thereof was impounded by the Sub-Collector of Chingleput on the ground that it was not a mere instrument of gift (in which case the document was properly stamped), but was in fact a declaration of trust and was, therefore, liable to a higher duty.

The Board of Revenue being of opinion that this decision was wrong, referred the case for the decision of the High Court.

The Government Pleader (Mr. *Powell*) for the Board.

The Full Bench (Kernan, Muttusami Ayyar, Parker, and Wilkinson, JJ.) delivered the following

JUDGMENT :—We think the instrument is one of gift and is not a trust deed under the Stamp Act, and comes within article 36, schedule I of the Stamp Act.

\* Referred Case No. 6 of 1888.