

UKKANDAN  
v.  
KUNHUNNI.

of a tarwad against the wishes of the other members of the tarwad. The reason given is that the ruin of the tarwad would be the likely result. It is therefore for the members of the tarwad to object to such a man being their karnavan and not for strangers. Defendant No. 2, who has raised the objection in the present case, no doubt, claims to be a member of the tarwad, but this claim of his is denied by the plaintiff; and other members of the tarwad have put in a petition, recognising plaintiff as their karnavan, and asking that the suit may be proceeded with in his name. If defendants desire, these petitioners might also be included as plaintiffs in this suit. The mere fact of plaintiff's blindness does not appear to be a valid ground for dismissal of the suit. The decrees of both the Lower Courts are, therefore, set aside and the suit remanded for replacement on the file of the District Munsif and disposal according to law.

Plaintiff's costs in the Lower Appellate Court, and in this Court, must be paid by second and third defendants. The rest of the costs incurred hitherto will follow and abide the result.

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## APPELLATE CIVIL.

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

AYYAPPA (DEFENDANT'S REPRESENTATIVE), APPELLANT,

v.

VENKATAKRISHNAMARAZU (PLAINTIFF), RESPONDENT.\*

*Rent Recovery Act (Madras)—Act VIII of 1865, s. 3—Registered zamindar—Zamindari held in coparcenary.*

A registered holder of a zamindari sued under the Rent Recovery Act to enforce the acceptance of a patta and execution of a muchalka by the defendant, a tenant on the estate. It was pleaded, in defence, that the zamindari was the undivided property of the plaintiff and his coparceners in whose name a patta and muchalka had already been exchanged :

*Held*, that the plaintiff, as being the registered zamindar, was entitled to maintain the suit alone.

SECOND APPEAL against the decree of H. T. Ross, District Judge of Godavari, in appeal suit No. 429 of 1880, reversing the decision

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\* Second Appeal No. 1079 of 1891.

1892.  
April 25.  
May 4.

of J. Walker, Acting Head Assistant Collector of Godavari, in summary suit No. 18 of 1890.

Suit under the Rent Recovery Act to enforce the acceptance of a patta and execution of muchalka by the defendant. The plaintiff was the registered zamindar of Gundepalli. The defendant admitted that he was a tenant of the zamindari, but stated that the plaintiff was a member of an undivided family, together with three other persons, and that the defendant had already accepted patta and executed a muchalka made out in the names of the plaintiff and his two coparceners. It appeared that the patta in question in the present suit had been duly tendered by the defendant. The Head Assistant Collector dismissed the suit, and his decision was reversed by the District Judge, who found that the relation of landlord and tenant was subsisting between the parties to the suit.

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The defendant having died, his legal representative preferred this second appeal.

*Sankaran Nayar* for appellant.

*Bhashyam Ayyangar* and *Venkataramayya Chetti* for respondent.

JUDGMENT.—We think that the Acting District Judge was right in holding that the plaintiff, as the registered zamindar, had a right under Act VIII of 1865 to compel defendant to accept a patta. The decision in *Valamarama v. Virappa*(1) is an authority for the proposition that in a zamindari the only zamindar is the registered zamindar, and we do not think that, upon this point, the authority of that decision has been shaken by the decision in *Subbu v. Vasanthappan*(2). In a zamindari the only landholder entitled to proceed under Act VIII of 1865 against the tenants of the zamindari must be the zamindar, and the only zamindar for the time being is the registered zamindar.

We dismiss this second appeal with costs.

(1) I.L.R., 5 Mad., 145.

(2) I.L.R., 8 Mad., 351.