

## APPELLATE CIVIL.

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

SARANGAPANI AND OTHERS (DEFENDANTS NOS. 1, 3 AND 4),  
APPELLANTS,

1893.  
Jan. 10, 11.

v.

THE SECRETARY OF STATE FOR INDIA IN COUNCIL  
(PLAINTIFF), RESPONDENT.\*

*Abkari Act—Act I of 1886 (Madras), s. 28—Attachment for arrears of revenue—  
Subsequent attachment in execution of decree—Priorities.*

Certain land was put under attachment for arrears of revenue under Madras Abkari Act, s. 28; the same land was subsequently attached in execution of a money decree against the defaulter and the defendant purchased it at the Court sale. The Collector of the district intervened in execution and objected to the sale of the land in question, but his objection was rejected. A suit was now brought in the name of the Secretary of State for a declaration that the land was liable for the arrears of revenue in respect of which the attachment under Abkari Act had been made:

*Held*, that the plaintiff was entitled to the declaration asked for.

SECOND APPEAL against the decree of C. Venkobachariar, Subordinate Judge of Tanjore, in appeal suit No. 377 of 1891, affirming the decree of A. Kuppusami Ayyangar, District Munsif of Kumbakonam, in original suit No. 81 of 1890.

The facts of the case are stated above sufficiently for the purposes of this report.

The defendants preferred this second appeal.

*Rama Rau* for appellants.

The *Acting Government Pleader* (*Subramanya Ayyar*) for respondent.

JUDGMENT.—In this case the Collector made the prior attachment under the provisions of the Madras Abkari Act I of 1886, s. 28. The lands were subsequently attached by a private creditor and sold in execution. The question is whether the property passed to the purchaser subject to the liability to be sold under the attachment previously made by the Collector.

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\* Second Appeal No. 659 of 1892.

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v.  
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INDIA IN  
COUNCIL.

The learned Pleader contends that the terms of section 28 of the Abkari Act do not extend the provision of section 2; Madras Act II of 1864, to sales for arrears of Abkari revenue, and that since the Revenue Recovery Act does not prohibit alienation after attachment, the attachment made by the Collector is absolutely void either against a private alienation or against a subsequent attachment in execution of a Court-decree. If this contention be valid, it would follow that the Crown would be in a worse position than any private creditor, even though making the first attachment, since it could not even claim rateable distribution under section 295, Code of Civil Procedure, because the attachment made by it, though made under the provisions of the law, was not made in execution of a decree for money.

We cannot accede to the contention. The attachment made by the Collector did undoubtedly render the property subject to be sold under section 28 of the Abkari Act, and the creditors who subsequently attached in execution of a Court-decree could not attach a larger interest than then belonged to his judgment-debtor. That interest was subject to the liability which had been legally imposed in due course of law and the purchaser could take no more. The principle of the decision in *Subramanya v. Rajaram*(1) applies. This is not a case of competition between different decree-holders under the Civil Procedure Code.

In this view it is not necessary to consider the wider question as to whether as a Crown debt the Collector's claim would have precedence.

The second appeal is dismissed with costs.

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(1) I.L.R., 8 Mad., 573.