

“(b) If so, in the present case, ought the Collector to acquire the whole house and compound?”

Pattabhirama Ayyar for the claimant.

RAMALAKSHMI
*,
COLLECTOR OF
KISTNA.

The Acting Government Pleader (*Subramanya Ayyar*) for the Collector.

JUDGMENT.—As observed by the Calcutta High Court in *Taylor v. The Collector of Purnea*(1), the Collector is not competent to refer and the Judge is not competent to decide any question arising under section 55 of the Act. The Act confers only a special and limited jurisdiction to the Judge to deal with two classes of questions, viz., the award of compensation and its apportionment among several claimants. When there is a difference of opinion as to whether the whole house should be taken up by Government or not, the proper course for the party is to institute a regular suit.

We are of opinion that the view of the Judge is correct.

The costs of this reference will be the costs of the cause.

APPELLATE CIVIL.

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

RAJAH OF VENKATAGIRI (DEFENDANT No. 1), APPELLANT,

v.

YERRA REDDI (PLAINTIFF), RESPONDENT.*

Rent Recovery Act (Madras)—Act VIII of 1865, s. 49—Suit for restoration of specific movable property.

1893.
January 10.

A raiyat brought a suit in the Court of a Deputy Collector as under the Rent Recovery Act, praying for the release from attachment and the restoration to him of certain movable property, and for some other subsidiary relief:

Held, that the Deputy Collector had no jurisdiction to entertain the suit under Rent Recovery Act, s. 49.

SECOND APPEAL against the decree of C. Ramachandra Ayyar, Acting District Judge of Nellore, in appeal suit No. 111 of 1891,

RAJAH OF
VENKATAGIRI
v.
YERRA REDDI.

reversing the decision of T. Jagannatham, Deputy Collector of Nellore, in summary suit No. 2 of 1891.

In this suit, brought before the Deputy Collector under the Rent Recovery Act (Madras), the plaintiff sought to recover crops of the value of Rs. 26⁰), alleged to have been wrongfully attached for arrears of rent by defendant No. 1 and to be at the time of suit in possession of defendants Nos. 1 and 2. The decree of the Acting District Judge was passed in favour of the plaintiff.

Defendant No. 1 preferred this second appeal.

Bashyam Ayyangar for appellant.

Ramachandra Rau Sahib for respondent.

JUDGMENT.—We are of opinion that the suit is not sustainable under section 49 of the Rent Recovery Act. The prayer of the plaint is not for damages, but for the release and restoration of specific movable property, together with some other subsidiary relief. The Revenue Court in which the suit was instituted is one of special and limited jurisdiction, and no such suit as the present will lie under section 49.

It might have been open to the plaintiff to prefer a petition under section 32 for the release of the property, but in that case there would be no appeal.

The suit must, therefore, fail; but as this point was not taken before the District Judge, and on the facts found the conduct of the defendants has not been free from blame, we shall not award costs in their favour.

The decree of the District Court must be reversed and the suit dismissed, each party bearing his own costs throughout.

