

APPELLATE CIVIL.

Before Mr. Justice Muttusami Ayyar and Mr. Justice Best.

1894.
December
12, 13.

PERIAROYALU REDDI (PLAINTIFF), APPELLANT,

v.

ROYALU REDDI AND OTHERS (DEFENDANTS NOS. 1 to 4 and 6),
RESPONDENTS.*

Darkhast rules—Application to Government for waste land—Irregular publication of application.

The plaintiff, having obtained an assignment from Government of waste land, was obstructed by the defendants in his attempt to enter into occupation, and he sued for a declaration of his title and possession. It appeared that his application for the land had not been duly published, and certain other formalities had not been observed, as provided by the darkhast rules, but the land had been assigned to him and a patta granted by Government :

Held, that the plaintiff's title was not invalidated by reason of the non-compliance with the darkhast rules.

SECOND APPEAL against the decree of W. F. Grahame, District Judge of South Arcot, in appeal suit No. 309 of 1893, reversing the decree of T. Gopalakrishna Pillai, District Munsif of Vriddhachalam, in original suit No. 535 of 1892.

The plaintiff sued for a declaration of his title to, and for possession of, certain land. The plaintiff's case was that he applied on darkhast for the land in question on the 26th April 1884, and the revenue authorities assigned it to him and granted a patta on the 19th May 1885, and that he since paid tirwa therefor. The defendants had objected to the plaintiff's application on the ground that the land in question was a threshing-floor and applied to the Board of Revenue which, however, upheld the assignment to the plaintiff. In September 1891 the plaintiff attempted to plough the land but was obstructed.

The District Munsif passed a decree as prayed, but his decree was reversed on appeal by the District Judge, who held that the darkhast was vitiated by reason of non-compliance with the Standing Order of the Board of Revenue, No. 30, section 5, which requires that the applications such as that of the plaintiff should be proclaimed in the village by beat of tom-tom, and that the signature

* Second Appeal No. 1346 of 1894.

of the nearest landholders should be obtained and a notice put up in two places. The District Judge was of opinion that these formalities not having been complied with, the plaintiff had obtained no title to the land.

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The plaintiff preferred this second appeal.

Ethiraja Mudaliar and *Sivagnana Mudaliar* for appellant.

Respondents were not represented.

JUDGMENT.—We are unable to agree in the opinion of the Judge that because some of the formalities prescribed by the darkhast rules have not been observed, he is entitled to cancel the patta granted to the appellant by the Government. Darkhast rules are departmental and if they are infringed, the remedy for such infringement is also departmental. Irregularities in observing those rules constitute no valid ground of interference by the Civil Courts with a grant of land made by the Government. The land in dispute is entered in the pymash account as waste and as such it is at the disposal of Government. It is not competent to the Civil Courts to set aside a grant made by an officer competent to make the grant. The two objections taken by the respondents against the grant have been disallowed. It has been found that he has no title as against the Government and it appears also that the land is entered in the pymash accounts as waste and not as threshing-floor. The District Munsif has further found that there is no communal necessity for reserving the land as a threshing-floor. It was held by this Court in *Subbaraya v. The Sub-Collector of Chingleput*(1) that a Civil Court cannot compel the revenue authorities to make settlement with a particular person on the ground that he was entitled to preference under the darkhast rules, (see also *Subbaraya v. Krishnappa*(2)).

We set aside the decree of the District Judge and restore that of the District Munsif.

Respondents must pay appellant's costs in this Court and also in the Lower Appellate Court.

(1) I.L.R., 6 Mad., 303, 309.

(2) I.L.R., 12 Mad., 422.