chand(1), *Juggobundhu Mukerjee* v. *Ram Chunder Bysack*(2) and *Lokessur Koer* v. *Purgun Roy*(3), but we do not think they support this contention. The two first are authority for the proposition that mere attachment is not dispossession, and the two latter show that formal or symbolical possession operates as a complete transfer of possession.

Where, therefore, the land being in the actual occupation of tenants, the formal possession was given to the auction-purchaser (second defendant's father) under section 319, Civil Procedure Code, the plaintiff's father was completely dispossessed whether he held on his own account or for his son. Plaintiff was then a minor, but had his father as his guardian brought this suit on his account, there can be no doubt that he would have been obliged to sue for possession having been actually dispossessed and the property transferred to another. The case is not altered by plaintiff attaining majority, and we think the principle laid down in *Narayana* v. *Shankunni*(4) applies.

Taking this view we must dismiss the appeal with costs.

APPELLATE CIVIL.

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

SHANGUNNI MENON (DEFENDANT No. 3), APPELLANT,

1894. November 5.

v.

VEERAPPAN PILLAI AND OTHERS (PLAINTIFF AND DEFENDANTS Nos. 5, 1, 2, 4 and 6), RESPONDENTS.*

Malabar Compensation for Tenants' Improvements Act (Madras)—Act I of 1887, *ss.* 3, 6 *—Cocoanut trees—Valuation of improvements.*

In a suit to redeem a kanom in Malabar, it appeared that the plaintiff paid into Court the kanom amount together with a sum on account of the defendants' improvements, but subsequently withdrew the money, which the defendant had not taken out of Court. The defendant claimed that he was entitled to receive under the head of compensation for improvements the capitalized value of the produce of

(1) I.L.R., 4 Bom., 515, 527.
(2) I.L.R., 5 Calc., 584.
(3) I.L.R., 7 Calc., 418.
(4) I.L.R., 15 Mad., 255.

* Second Appeal No. 1312 of 1894.

SHANGUNNI MENON v. VEERAPPAN PILLAI.

cocoanut trees planted by him computed with reference to the probable productive life of the trees :

Held, that the plaintiff was entitled to redeem, and that the defendant was not entitled to have the whole of the future annual produce of the trees taken into consideration in computing the value of improvements under the Malabar Compensation for Tenants' Improvements Act, 1887.

SECOND APPEAL against the decree of R. S. Benson, District Judge of South Malabar, in appeal suit No. 123 of 1893, affirming the decree of V. P. DeRozario, Subordinate Judge of South Malabar at Palghat, in original suit No. 16 of 1891.

Suit to redeem a kanom, dated the 20th December 1878, and executed by the jenmi in favour of defendants Nos. 1 to 4. The plaintiff was the melkanomdar. Defendants Nos. 1 to 3 claimed to be entitled to continue in possession for twelve years after the expiry of the term of the kanom under a purankadom document of further charge executed in their favour by the jenmi, and they also claimed compensation for improvements. Defendant No. 5 was a sub-mortgagee holding a karipanayom under defendants Nos. 1 to 4. He also claimed compensation for improvements. The plaintiff made a tender of the kanom amount together with a further sum on account of improvements and deposited the amount in Court on the 16th of March 1891, but it was not taken out of Court and he subsequently withdrew it.

The Subordinate Judge held that the document of further charge was not proved, and valued the compensation due to defendants Nos. 1 to 4 at Rs. 390, and passed a decree for redemption on payment of the kanom and the value of improvements, providing for the satisfaction of the claim of defendant No. 5. The amount payable on account of improvements was referred to a commissioner, upon whose report the decree proceeded. The District Judge affirmed this decree.

Defendant No. 3 preferred this second appeal.

Sundara Ayyar for appellant.

Pattabhirama Ayyar for respondent No. 1.

Govinda Menon for respondent No. 2.

JUDGMENT.—As the appellant did not choose to take the money out of Court, he has no right to complain that the plaintiff withdrew it. . . . No reference to exhibit III as bearing upon the genuineness of the purankadom document II seems to have been urged in the Courts below, and there is nothing to show any negligence on the part of the vakil. We are unable to accede to

the contention that appellant is entitled to the capitalized value of the produce of the cocoanut trees for the period of the life of those trees. See *Valia Tamburatti* v. *Parvati*(1). We are referred to explanation (*a*), section 6, of Madras Act I of 1887, as showing that the Legislature intended the probable life of the trees to be taken into consideration. The enumeration in section 6 of the matters to be taken into consideration evidently refers to the different classes of improvements specified in section 3, and the matters to be considered will vary according to the class of the improvement. The Subordinate Judge has properly considered the cost of planting and protecting the trees, and he has also taken into consideration the value of the annual produce. It is not enacted in section 6 that the whole of the future annual produce shall be considered. The Act is very difficult to construe, but, in the absence of express words to that effect, we are not prepared to hold that the Legislature intended to give to a tenant holding only a twelve years' lease the whole value of the produce of the cocoanut trees on his landlord's paramba for 54 years in addition to his lease (that being said to be the productive life of the cocoanut trees). This is practically what is now contended for. The title of the Act may be "to secure to tenants the market value of their improvements," *i.e.*, improvements made by them, but it does not profess to create for them an interest in the land beyond the period of their leases; and this in effect would be done if such a claim were allowed, and it would amount to a virtual confiscation of the jenmi's property. A reasonable interpretation must be given to the Act, and we must assume that, if the Legislature had intended to give the tenant an interest in the land after his lease had expired, they would have said so in plain terms.

We dismiss the second appeal with costs for respondents Nos. 1 and 2.

(1) I.L.R., 13 Mad., 454.