

## APPELLATE CIVIL.

Before *Mr. Justice Subramania Aiyar.*

MUTHUVIJAYA RAGHUNADHA RAJU TEVAR  
AND OTHERS (PLAINTIFFS), APPELLANTS,

1896.  
March 17, 20.

v.

CHOCKALINGAM CHETTI AND OTHERS (DEFENDANTS  
Nos. 1 TO 86) RESPONDENTS.\*

*Joinder of plaintiffs—Wrongful act affecting the rights of the several plaintiffs.*

Where certain persons were alleged to have committed a wrongful act by evicting the plaintiffs from certain land in which the first plaintiff claimed to be entitled to the melvaram and the other plaintiffs to the kudivaram :

*Held*, that a suit brought by the plaintiffs jointly was not bad for misjoinder.

APPEAL against the order of C. Gopalan Nayar, Subordinate Judge of Madura (East), passed in original suit No. 47 of 1893. This is a suit by the Zamindar of Sivaganga and five Mahajanams of the hamlet of Peria Pudukulam in the village of Oruchirangamadai in the said zamindari to obtain a declaration that cheis 96-13-10 of nanja lands in that hamlet are the property of the plaintiffs, and to recover their possession from the defendants Nos. 1 to 85, together with Rs. 3,101-5-6 for mesne profits for the faslies 1299 to 1301. The first plaintiff's claim is based on his title as melvaramdar of the hamlet by virtue of his position as hereditary trustee of the Vayal Chari Sattram, while the plaintiffs Nos. 2 to 6 and 86th defendant are said to be its kudivaram tenants. It is alleged in the plaint that the defendants Nos. 1 to 8 are the owners by right of purchase of the Dharmasanam village of Rangian, which lies to the east and south of the plaint lands; that the hamlet of the Peria Pudukulam being uninhabited, plaintiffs Nos. 2 to 6 used to cultivate its lands with the assistance of defendants Nos. 12 to 85, who belong to the Rangian village; that these defendants raised the crops on these lands in fasli 1298 with the permission of these plaintiffs, but, at the instigation of the defendants Nos. 1 to 11 and without plaintiff's permission such crops were unlawfully cut, carried away and misappropriated by all the defendants; that the produce for the subsequent faslies 1299 to

\* Appeal against Order No. 44 of 1894.

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1300 has also been similarly misappropriated by them and that they, defendants Nos. 1 to 85, are keeping wrongful possession of the lands against the plaintiff's wishes. Defendants Nos. 1 to 4, among other pleas, object to the suit on the ground of multiplicity as the causes of action of all the plaintiffs are distinct and several. They also deny all the main allegations in the plaint, the plaintiffs' title to the lands and the trespass or wrongful possession alleged in the plaint and claim the plaint lands of cheis 96-13-0 as constituting the waterspread of the Rangian tank and, as such, belonging to that village.

Mr. P. A. DeRosario, *Bhashyam Ayyangar* and *Desika Chariar* for appellants.

Mr. *Parthasaradhi Ayyangar* for respondents.

JUDGMENT.—The plaintiffs sue for possession of certain lands from which they state they have been wrongfully evicted. Their case is that the first plaintiff holds the melvaram right and the plaintiffs Nos. 2 to 6 the kudivaram right in the village of Peria Pudukulam, that the lands in dispute form part of the said village, that the defendants Nos. 12 to 85, who had been cultivating the lands under the plaintiffs Nos. 2 to 6, had, at the instigation of the defendants Nos. 1 to 11, cut and carried away the crops that had been raised for the fashi 1298, and that ever since the defendants Nos. 1 to 85 have combined together and retained possession of the lands, alleging that the same form part of the village of Rangian belonging to defendants Nos. 1 to 11.

The Subordinate Judge held that the plaint was, on the face of it, bad for misjoinder of parties and causes of action.

Now when two persons are interested in a piece of land—one as melvaramdar and the other kudivaramdar—and a third party commits a wrongful act which affects the rights of the persons so interested, it may, I think, properly be held that the land is common to both to the extent of entitling them to sue jointly in respect of the wrongful act, treating such act as giving rise to but one cause of action affecting the two persons more or less (compare the observations in *Venkatachelam Chetti v. Andiappan Ambalam* (1). This view would, of course, prevent the unnecessary multiplicity of suits which would otherwise result. For, taking this very case, and even supposing that the plaintiffs Nos. 2 to 6 do not hold

all the lands jointly sharing the crops only, but that they hold definite parcels of lands on account of the share of each, and that each of these plaintiffs brings a suit against the defendants in respect of so much of the lands in question as belongs to him, the point to be decided in each of such suits would be whether the respective lands form part of the Peria Pudukulam village. This point would have to be tried in the first plaintiff's suit also, since that suit would embrace every one of the lands comprised in the various suits supposed to be instituted by the plaintiffs Nos. 2 to 6. It is therefore difficult to see what useful purpose can be served by refusing to permit the first plaintiff, the melvaramdar, and the other plaintiffs, the kudivaramdar, to sue together and have the question whether the whole or any and which part of the disputed lands is attached to Peria Pudukulam village tried and settled once for all.

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As to the objection that the various defendants themselves claim or are likely to claim portions of the disputed land as their separate property, I think that is altogether immaterial, because the point to be decided is not what the interests of the defendants are should the plaintiffs fail to establish their case, but whether the plaintiff's case is true.

The order of the Subordinate Judge seems, therefore, to be wrong, and I reverse it and direct that the plaint be restored to the file and dealt with according to law.

The costs will abide and follow the result.

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## APPELLATE CIVIL.

*Before Mr. Justice Subramania Ayyar and Mr. Justice Benson.*

KOLANDAYA SHOLAGAN (DEFENDANT No. 2), APPELLANT,

v.

VEDAMUTHU SHOLAGAN (PLAINTIFF), RESPONDENT.\*

*Hindu Law—Suit by reversioner to set aside alienations by widow—*

*Fraudulent consent given by nearest reversioner.*

In a suit brought by the nearest reversioner of a Hindu widow who had alienated portions of her husband's estate with the consent of the nearest reversioner alive at the date of the alienation (since deceased), it was found that

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March 6, 31.