

WHITE, C.J., unimportant and trivial a matter as the right of the plaintiff to  
AND  
MILLER, J. nominal damages for a problematical loss of dignity.

SEI RUNGA-  
CHARIAR  
v.  
RUNGASAMI  
BATTACHAR.  
The matter really in dispute is as to the precedence of the plaintiffs as thirthagars at the *Thiruventhikappu* ceremony, and it is unnecessary in our opinion to set out in the decree other occasions on which they are entitled to honours, which so far as the plaint shows have not been denied to them before the suit. It is sufficient as regards other matters to declare them entitled to their emoluments and honours to meet the general denial by the archakas in their written statement. We therefore modify the decree as follows :—

For paragraph 3 of the decree ( on page 16 of the printed pleadings) we substitute the following :—

“That as holding the above offices they are entitled to the honours and emoluments appropriate thereto including the right to first thirtham at the Thiruventhikappu when the archakas are no longer behind the screen.”

The mandatory injunction, paragraph 7 (b), will also have to be struck out, and in other respects the decree of the District Judge is confirmed.

Each party will bear his own costs of the Second Appeals and the memorandum of objections in this Court.

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## APPELLATE CIVIL.

*Before Mr. Justice Munro and Mr. Justice Sankaran-Nair.*

THE SECRETARY OF STATE FOR INDIA IN COUNCIL,

REPRESENTED BY THE COLLECTOR OF ANANTAPUR

(DEFPDANT), APPELLANT,

v.

BUNDEPPA OF KONAKONDLA (PLAINTIFF),  
RESPONDENT.\*

*Darkhast, grant of land on —Grant by competent authority not to be set aside because not made in the manner prescribed.*

A grant of land on darkhast, by an authority competent to make such grant, cannot, where no fraud has been practised in obtaining such grant,

be set aside on the ground that it was not made in the manner prescribed by the Board's Standing Order.

*Collector of Talem v. Rengappa*, [(1889) I.L.R., 12 Mad., 404 at p. 406], followed.

SECOND APPEAL against the decree of M. J. Murphy, District Judge of Kurnool, in Appeal Suit Nos. 143 and 144 of 1905, presented against the decree of K. Krishnamachariar, District Munsif of Gooty, in Original Suit No. 802 of 1904.

The facts of the case for the purpose of this report are sufficiently stated in the judgment.

The Government Pleader for appellant.

*P. R. Sundara Ayyar* and *P. S. Parthasarathi Ayyangar* for respondent.

JUDGMENT.—In this case certain tank bed lands were granted on darkbast to the plaintiff's father in 1894 and patta was issued. This grant was in contravention of the Board's Standing Order No. 15, which lays down that tank bed lands are to be dealt with under Board's Standing Order No. 16. Under the latter order tank bed lands are to be divided into plots and sold by auction. In 1904 the Collector cancelled the patta on the ground that the plaintiff's father had obtained the land by fraud. The plaintiff then brought the present suit to have his patta confirmed. The defendant, the Secretary of State for India, in his written statement, alleged that the assignment of the land on patta was in contravention of Board's Standing Order No. 15; that the plaintiff's father obtained his patta by fraud and collusion with the village officers; and that, as the assignment of the land had been obtained by fraud and misrepresentation, it was illegal and not binding upon the defendant. It seems clear that the defendant's case in the written statement was that the grant was liable to be set aside, not because it was irregular, but because it had been brought about by fraud. The District Judge has found that there was no fraud and this finding of fact is binding upon us, and is really sufficient for the disposal of the case. It is however argued that the defendant meant to contend that he was entitled to cancel the grant because it was opposed to Board's Standing Order No. 15, Assuming this to be so, we are of opinion that the grant is not liable to be cancelled. The disposal of tank bed lands is not prohibited. All the rules lay down is, that tank bed lands shall be disposed of in a particular manner. It is also conceded that a

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Tahsildar—it was, a Tahsildar who granted the darkhast in the present case—has power to dispose of tank bed lands. The position then is this. The Tahsildar having power to dispose of the lands in suit disposed of them in a manner not warranted by the rules, whether owing to a mistake as to the nature of the lands, or owing to a misapprehension of the rules. There is no question of any fraud. In due course patta was issued to the grantee of the lands. There is no suggestion that the patta was issued conditionally. In *Collector of Salem v. Rangappa*(1) it was observed as follows :—“ It is not pretended that the patta issued “ to the plaintiff was issued conditionally or that it was issued by “ an officer not competent to act in the matter. Nor is it alleged “ in the written statement that there was any fraud practised by “ the plaintiff on the defendant or the Collector. The case was “ simply one of mistake ; the Tahsildar would not have issued “ the patta had he known all the facts. In our opinion allegation “ and proof of such mistake does not justify the cancelment of a “ patta issued by a competent officer in favour of one who has “ come into occupation of the land under it. When once possee- “ sion has been taken under a patta unconditionally issued by a “ competent officer the pattadar, can, we think, be evicted only “ under the provisions of the Revenue Act.” The same principle is followed in *Periaroyalu Reddi v. Royalu Reddi*(2). Following these decisions we are of opinion that the Collector was not justified in cancelling the patta in the present case. The appeal is dismissed with costs.

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(1) (1889) I.L.R., 12 Mad., 404 at p. 406. (2) (1885) I.L.R., 18 Mad., 434.