

zamindar, not being subject to any separate charge for such irrigation, is within the protection of the first proviso to section 1 of the Madras Irrigation Cess Act VII of 1865, as amended by the Act V of 1900. The appellants will be entitled to recover the amounts paid under protest with interest at 6 per cent per annum and their costs here and in the Courts below. Their Lordships' will humbly advise His Majesty accordingly.

PRASAD ROW
v.
THE
SECRETARY
OF STATE
FOR INDIA.
—
LORD
PARKER OF
WADDINGTON.

Appeals allowed.

Solicitor for the appellants: *Douglas Grant.*

Solicitor for the respondent: *The Solicitor, India Office.*

J.V.W.

PRIVY COUNCIL.*

AMBALAVANA PANDARA SANNADHI (PLAINTIFF),

1917,
June, 20.

v.

THE SECRETARY OF STATE FOR INDIA IN COUNCIL
(DEFENDANT).

[On Appeal from the High Court of Judicature at
Madras.]

Irrigation Cess Act (Madras Act VII of 1865)—Conditions necessary to entitle Government to levy water-cess—Extent of right to water—Engagement by landholder with Government.

In this case the decision in *Prasad Row v. The Secretary of State for India* (1917) I.L.R., 40 Mad., 886 (P.C.) was followed, on the admission of the respondent that the rights of the parties were governed by it.

APPEAL No. 6 of 1915 from the decree (18th October 1910) of the High Court at Madras, which varied the decree (4th July 1905) of the Subordinate Judge of Tinnevelly.

The facts of the case appear in the report of the appeal to the High Court (Sir ARNOLD WHITE, C.J., and AYLING, J.) which will be found in *Secretary of State for India v. Ambalavana Pandara Sannadhi*(1).

* *Present*:—Lord PARKER of Waddington, Mr. AMBER ALI and Sir WALTER PHILLIMORE, *Bart.*

(1) (1911) I.L.R., 34 Mad., 366.

AMBALAVANA
PANDARA
SANNADHI
v.
THE
SECRETARY OF
STATE FOR
INDIA.
—
LORD
PARKER OF
WADDINGTON.

On this appeal—

De Gruyther, K.C., and B. Dube for the appellant.

Sir Erle Richards, K.C., and Kenworthy Brown for the respondent.

The judgment of their Lordships was delivered by

LORD PARKER OF WADDINGTON.—The Secretary of State for India in Council admits that the rights of the parties in this appeal are governed by the recent decision in the consolidated appeals of *Prasad Row v. The Secretary of State for India in Council*(1). The appellant on this admission asks for no further relief. Both parties leave the question of costs to the discretion of the Board. The declaration and injunction claimed by the appellant are, in their Lordships' opinion, too wide, and under the circumstances they think that justice will be met by humbly advising His Majesty that no order should be made on this appeal, except that the parties should each bear his own costs.

Solicitor for the appellant: *Douglas Grant*.

Solicitor for the respondent: *The Solicitor, India Office*.

J.V.W.

APPELLATE CIVIL.

Before Mr. Justice Coutts Trotter and Mr. Justice Srinivasa Ayyangar.

THE SECRETARY OF STATE FOR INDIA IN COUNCIL
(DEFENDANT), APPELLANT,

v.

P. VENKAYYA (DIED) AND ANOTHER (PLAINTIFF AND HIS LEGAL REPRESENTATIVE), RESPONDENTS.*

Lease of Government land in writing, registered—Possession of part not given from inception of lease—Suit for damages—Time from which limitation begins to run—Limitation Act (XV of 1877), art. 116—Failure to give possession, whether a continuing breach—Equivocal or ambiguous acknowledgment, whether, a valid one under section 19 of the Limitation Act (XV of 1877)—Transfer of Property Act (IV of 1882), applicability of, to Crown grants.

The plaintiff obtained in March 1896 from the defendant, the Collector of Godāvāri District, acting as Agent to the Government, a lease, in writing registered, for five years, of a piece of land whose 'probable extent' was described

(1) (1917) I.L.R., 40 Mad., 886 (P.C.).

* Appeal No. 90 of 1912.