

NARAYANAN
NAIR
v.
CHERIA
KATHIRI
KUTTY.
—
OLDFIELD, J.

Valuation Act (VII of 1887), Local Governments are empowered to make rules for determining the value of land for purposes of jurisdiction in the suits mentioned in the Court Fees Act, section 7 (vi) and suits such as that before us are so mentioned. Under section 6 when such rules are made section 14 in Madras Civil Courts (Act III of 1873) is to be deemed repealed. Section 14, no doubt refers to the subject matter of suits for land, etc., but it is not in our opinion possible to accept the argument that subject-matter includes only immediate rights to possession and not such rights relating to land as pre-emption when the contrary is indicated clearly by the last mentioned provision of the Suits Valuation Act. We therefore hold that the proper valuation is in accordance with section 14 of the Madras Civil Courts Act that fixed in the manner provided by the Court Fees Act, section 7 (v). It is not disputed that so valued the suit will be within the District Munsif's jurisdiction. We therefore agree with the District Judge's decision and dismiss the petition with costs.

K. R.

APPELLATE CIVIL.

Before Mr. Justice Oldfield and Mr. Justice Sadasiva Ayyar.

B. RAJACHARI (DEFENDANT-PETITIONER), APPELLANT,

v.

TIRUMUGOOR DEVASTANAM, REPRESENTED BY ITS MANAGER
VENGU NAYUDU (PLAINTIFF-RESPONDENT), RESPONDENT.*

Estates Land Act (Madras Act I of 1908), ss. 3 (2) (d) and 8—One of several inamdars, acquiring the entire kudivaram right in an inam village—Lease of lands by such inamdar—Suit for rent in Civil Court—Jurisdiction of Civil or Revenue Court—Exception to section 8, applicability of, to clause 1 or 2 of section 8—Strict construction, necessity for.

Where one of several *inamdars* in an *inam* village, having acquired by gift the *kudivaram* right in the whole village and leased 50 cents of land out of the whole village, sued to recover rent in a Civil Court on the basis of the lease.

Held, that the Civil Court had no jurisdiction to entertain the suit, and that the plaint should be returned for presentation to a Revenue Court having jurisdiction.

* Letters Patent Appeal No. 156 of 1917.

The expression 'the *inamdar*' in the exception to section 8 of the Estates Land Act should be read in its strict sense as equivalent only to the owner of the entire interest in the *inam*, and the exception should be treated as governing only sub-section (1) and not sub-section (2) of section 8 of the Act. RAJACHARI
c.
TIRUMUGOOR
DEVASTANAM.

APPEAL under clause 15 of the Letters Patent against the judgment and decree of SESHAGIRI AYYAR, J., in *Rajachari v. Tirumugoor Devastanam* (1).

The material facts appear from the judgment of OLDFIELD, J. *K. N. Aiya Ayyar* for the appellant.

A. Krishnaswami Ayyar for the respondent.

OLDFIELD, J.—The only question argued is whether the learned Judge was right in holding that the Civil Court had jurisdiction. OLDFIELD, J.

The facts as now agreed on differ from those stated by the learned Judge. For they are that plaintiff, one of the fractional shareholders of the *melvaram* right in an *inam* village, that is, one of the *inamdars*, acquired by gift the *kudivaram* right in the whole village not in a portion of it, and that in 1897 he leased 50 cents of the whole to defendant, the appellant before us. The suit is on that lease for rent. Ordinarily section 8 (2) of the Estates Land Act would apply, the defendant would be deemed an occupancy ryot and the suit would lie in a Revenue Court. But it is admitted that the land is comprised in an estate falling under section 3 (2) (d) and argued that the exception to section 8 is applicable and the land has ceased to be part of an estate. In effect, therefore, the question is whether the exception governs the sub-section (2) or only sub-section (1); that is, whether the expression 'the *inamdar*' in the exception can be read as equivalent also to 'an *inamdar*' or 'any of the *inamdars*.'

The point is not, so far as we have been shown, covered by authority. On the one hand, the exception stands at the end of the section consistently with its application to both sub-sections (1) and (2) instead of only to the former; and as the definition of 'landholder' in section 3 (5) includes a direct reference to joint landholder, all references to 'the landholder' and therefore that to 'the *inamdar*' which the exception contains should, it may be argued, be read in the manner proposed by plaintiff. But on the other hand although it is not clear that a

RAJACHARI distinction is drawn between 'the landholder' and 'a landholder' or can be implied regarding 'the *inamdar*' except in provisions in respect of which such distinction would be material, TIRUMUGOOR DEVASTANAM. I think that it would be in that under consideration and that the strict reading of the expression 'the *inamdar*' is necessary in the interests of convenience and reasonable interpretation. For otherwise the anomalies involved in the application of sub-section (2) to the *inam* villages referred to in the exception are excessive. If the exception is applicable to acquisitions of the *kudivaram* by a fractional *inamdar* the land in question ceases to be part of the estate; and it can only be regarded as doing so, either (1) as between the acquiring *inamdar* and his lessee (if any) and not between the former and the other *inamdars* or (2) absolutely. The first alternative is untenable since it is not consistent with the general language used in the exception or with the fact that sub-section (2) does not refer to the acquiring *inamdar's* right in the phraseology of the Act as that of an occupancy ryot but simply as being to hold on payment in accordance presumably with the ordinary law. The second deprives the other *inamdars* without their consent and perhaps against their will of the security for their share of the rent, which the provisions of the Act relating to distraint, sale of the holding and summary procedure afford. These anomalies can be avoided only if 'the *inamdar*' in the exception is read in its strict sense as equivalent only to 'the owner of the entire interest in the *inam*' and the exception is treated as applicable only to sub-section (1). On this interpretation the decision must be that the suit holding has not ceased to be part of the estate and that the suit should have been filed in a Revenue Court. The Letters Patent Appeal is allowed: the decisions of the learned Judge and the Subordinate Judge being set aside and the plaint being returned for presentation to the Revenue Court having jurisdiction.

Plaintiff will pay defendants' costs to date.

SADASIVA AYYAR, J.—I entirely agree.

SADASIVA
 AYYAR, J.

K.R.