

## APPELLATE CIVIL.

Before Mr. Justice Jackson.

SAHADEVA REDDI (PLAINTIFF) PETITIONER,

1924,  
March 24,

v.

LINGAPPA ASARI AND OTHERS (DEFENDANTS), RESPONDENTS.\*

*Madras Act III of 1895, ss. 13 and 21—Blacksmith's inam—Lessee of inam lands from holder of the inam—Obstruction to enjoyment of lease by defendants—Suit by lessee for damages against obstructors—Suit instituted in a Civil Court—Jurisdiction of Civil or Revenue Court to entertain suit by holder of inam or his alienee.*

A lessee from the holder of a blacksmith's unenfranchised inam sued in a Civil Court to recover damages for unlawful obstruction to his enjoyment of the lands during the period of his lease, caused by the defendants; the latter denied the title of the lessor and contended that the Civil Court had no jurisdiction to entertain the suit:

*Held*, that the Civil Court had jurisdiction to entertain the suit.

In spite of the generality of the language of section 21 of Madras Act III of 1895, the jurisdiction of Civil Courts is taken away only in those cases in which it is conferred on the Revenue Court by section 13 of the Act; *Muvvula Seetham Naidu v. Doddi Rami Naidu* (1910) I.L.R., 33 Mad., 208, relied on;

and section 13 of the Act is confined to persons suing in their own right as holders, to whom the Revenue Court is provided as the forum, while for other persons, including alienees from the holders, the forum is the ordinary Civil Court.

PETITION to revise the order of F. A. COLERIDGE, District Judge of Chingleput, in Miscellaneous Appeal No. 3 of 1922 preferred against the order of O. KUNHIRAMAN, Additional District Munsif of Chingleput, in

\* Civil Revision Petition No. 137 of 1923.

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Original Suit No. 218 of 1919 (Original Suit No. 426 of 1919 on the file of the District Munsif's Court of Tiruvallūr).

The plaintiff was the lessee of certain lands attached to a blacksmith's inam which was at the time of suit unenfranchised. The lease was for faslis 1324 to 1331 and was granted in 1914 by one Muragappa Asari, who was then its holder and died prior to suit. The plaintiff alleged that, during the currency of his lease, certain persons obstructed him in his enjoyment of the lands, prevented him from cultivating them during the years 1917 and 1918 and caused him damage by way of loss of crops during those years to the value of Rupees 210. The plaintiff impleaded the present holders of the inam as defendants 1 and 2, and the tortfeasors as defendants 3 to 8. The plaint alleged that the lease, granted by the previous holder of the inam, was continued by the first and second defendants, who were his heirs and present holders of the inam and supported the plaintiff. The other defendants pleaded that the first and second defendants were not the holders of the inam, that the melwaram, and not the lands, formed the emoluments of the inam, that one-half of the inam was carpenter's inam, that the village mirasidars cultivated the lands and paid only paddy to the blacksmith as emoluments, and that the Civil Court had no jurisdiction to entertain the suit. The District Munsif held that the Civil Court had no jurisdiction to entertain the suit and passed an order returning the plaint to be presented to the proper Revenue Court. On appeal, the District Court confirmed the order and dismissed the appeal. The plaintiff preferred this Civil Revision Petition to the High Court.

*L. A. Govindaraghava Ayyar and A. Ramachandra Ayyar* for petitioner.

*Rajagopalan and Rajagopalan* for respondents.

## JUDGMENT.

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In Original Suit No. 426 of 1919, on the file of the Court of the District Munsif of Tiruvallūr, plaintiff sued for Rs. 210 alleging that he held a lease of a blacksmith's inam from the previous holder which had been continued by the present holders, defendants 1 and 2. The other defendants 3 to 8 denied that these holders had title. The District Munsif and District Judge on appeal have held that the jurisdiction vested in the Revenue Court, and plaintiff seeks to revise the order and judgment of the District Court.

This is an unenfranchised inam and a point directly in issue is whether defendants 1 and 2 have any claim to succeed to the office, and whether plaintiff as lessee can recover the emoluments of the office. Section 21, Act III of 1895, would seem therefore to apply. But it has long been settled that section 21 must be read with section 13. In spite of the generality of the language of section 21 the jurisdiction of the Civil Court is taken away only in those cases in which it is conferred on the Revenue Court by section 13: *Muvvula Seetham Naidu v. Doddi Ram Naidu*(1). Under section 13 any person may sue before the Collector for a village office or for its emoluments on the ground that *he is entitled to hold such office and enjoy such emoluments*. The section is clearly confined to persons suing in their own right as holders. On behalf of respondents it is urged that if this be so a holder has only to lease the emoluments and leave it to the lessee to sue on his title in order to carry the suit away from the jurisdiction of the Revenue Courts. The short answer is that he can do this if he so pleases. The question of jurisdiction is merely technical and involves no equities. If a holder

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(1) (1910) I.L.R., 33 Mad., 208.

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wants to sue, the legislature has provided the Revenue Court as his forum; if any other person is suing it has provided the ordinary Civil Courts.

The defence has exhibited a certified copy of judgment in an unreported case of this Court. I deprecate the practice. Courts should depend upon reported cases for guidance. In this exhibit it has been ruled that, although the plaintiff is not a holder of the office and is a mere alienee from the office-holder, the suit is still governed by section 21, Act III of 1895, on the authority of *Palamalai Padayachi v. Shanmuga Ausari*(1) and *Veerabadran Achari v. Suppiah Achari*(2). In *Palamalai Padayachi v. Shanmuga Ausari*(1) plaintiff sued on the ground that he was the village carpenter and as such entitled to the lands attached to that office. The question for determination was whether the suit was barred by section 3, Regulation VI of 1831, and a Full Bench found it to be so barred. In *Veerabadran Achari v. Suppiah Achari*(2) plaintiff sued as holder of the office of carpenter, and it was found that the office in this case was not one covered by the special Acts. No reported case has been brought to my notice in which it has been ruled that a mere alienee is barred under section 21, Act III of 1895, and as at present advised I do not see how it could be so ruled.

I must therefore allow this petition, and reverse the judgment and order of the lower Appellate Court. The District Munsif of Tiruvallūr has jurisdiction and must proceed with the suit.

Petitioner will have costs throughout.

K.R.

(1) (1894) I.L.R., 17 Mad., 302 (F.B.).

(2) (1910) I.L.R., 33 Mad., 488.