

Bench in *Tuljaram Row v. Alagappa Chettiar*(1). We might almost as reasonably say that an order of adjournment is a judgment within the meaning of that clause.

MANECKJI  
RUSTOMJI  
v.  
WADIA,  
—  
REILLY, J.

I agree that this appeal is incompetent and must be dismissed with costs.

*Atkinson & Co.*, Attorneys for appellants.

*King & Partridge*, Solicitors for respondents.

K. R.

## APPELLATE CIVIL.

*Before Mr. Justice Kumaraswami Sastri.*

KUMARAPPA CHETTIAR (PETITIONER), PETITIONER,

1927,  
March 11.

v.

PODISAL AND ANOTHER (COUNTER-PETITIONERS),  
RESPONDENTS.\*

*Madras Estates Land Act, ss. 73, 74, 205—Jurisdiction of  
Collector under sec. 205, only revisional.*

A mere denial by a tenant that the petitioner, under sections 73 and 74 of the Madras Estates Land Act, is the landlord or that he is entitled to appraisal or division of crops does not oust the jurisdiction of the Revenue Officer to inquire into an application made under those sections.

As no appeal lies from an order of a Revenue Officer made under sections 74 and 75 of the Madras Estates Land Act, the power of the District Collector under section 205 of the Act in respect of such orders is purely one of revision and he cannot interfere with the order unless there was no evidence on which the Revenue Officer could have passed the order.

PETITION under section 115 of Act V of 1908 and section 107 of the Government of India Act praying the High Court to revise the decretal orders of the Court of the

(1) (1912) J.L.R., 35 Mad., 1 (F.B.).

\* Civil Revision Petition Nos. 1364 and 1366 of 1925.

KUMARAPPA  
CHETTIAR  
v.  
PODISAL,

District Collector of Tanjore in Revision Petition Nos. 42 and 44 of 1925 preferred against the decretal orders of the Court of the Deputy Collector of Pattukkottai Division in Miscellaneous Applications Nos. 62 and 64 of 1925.

The facts are given in the judgment.

*B. Sitarama Rao* for petitioner.

*S. Muthiah Mudaliyar* for respondent.

### JUDGMENT.

This Civil Revision Petition arises out of an order passed by the Collector under section 205 of the Madras Estates Land Act on a revision filed before him from an appraisal proceedings by the Deputy Collector under sections 74 and 75 of the Act. The points for decision before the Collector were, first of all, whether the application on the facts found by the Deputy Collector would lie under section 74 of the Act and whether the applicant was the person entitled to ask for the appraisal, assuming that the facts were in existence which would entitle the landlord to invoke section 74. The Deputy Collector heard the evidence and allowed the application of the petitioner here. The Collector in revision was of opinion that the applicant was not entitled to file the application, but he set aside the order of the Deputy Collector in respect of certain of the lands referred to in the order on the ground that the tenants denied that the landlord had any right to collect melvaram and that this mere denial puts an end to the power of the Deputy Collector to act under section 73 of the Estates Land Act. I think the Collector is clearly wrong in the view that a mere denial by the tenants ousts the jurisdiction under sections 73, 74 and 75 of the Deputy Collector to make an inquiry. This part of the order is not supported by the respondent. The

powers of the Collector under section 205 are limited and he cannot go into the weight of the evidence or decide the matter as if it was an appeal on the facts to him. Section 205 gives him power to act only if the Revenue Officer appears to have exercised a jurisdiction not vested in him by law or to have failed to exercise a jurisdiction so vested or while acting in the exercise of his jurisdiction to have contravened some express provisions of law affecting the decision on the merits or where such a contravention has produced serious miscarriage of justice. I think it is clear that, before the Deputy Collector can act, it must be shown that the petitioner was entitled to apply for appraisal and if on the facts proved before him, such a right was not proved, the obvious course on revision would be to set aside the order as being one passed by the Deputy Collector without jurisdiction.

Mr. Muthiah Mudaliyar argues that the right of the petitioner has not been proved on the evidence on record. I think that this petition ought to go back to the Collector for the purpose of ascertaining whether in his view the petitioner has proved his right to come before the Deputy Collector for appraisal. If there is no evidence to support his right, the order on the Revision Petition of the Collector would be to allow the revision if he considers that there has been a miscarriage of justice. If the petitioner is found to be entitled to apply for appraisal, it is clear that a mere denial by the tenants would not affect his rights. I set aside the order of the Collector and remand the petition to him for disposal in the light of the above observations. It is also contended that the Collector has not dealt with the other grounds raised before him in revision and the Collector will decide all the points raised. Costs will abide and follow the result.