

Orr and ors. Vs. Rakkumarathi

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Court : Chennai

Decided On : Jul-27-1905

Reported in : (1906)ILR29Mad83

Judge : S. Subrahmania Ayyar, Officiating C.J. and; Sankaran Nair, J.

Appellant : Orr and ors.

Respondent : Rakkumarathi

Judgement :

1. Admittedly the relation of landholder and tenant subsisted between the parties to the suit and even in these proceedings it is not the defendant's case that such relation has terminated. They tender a patta which implies the continuance of that relation. It is difficult to understand how they can insert in the patta words implying that any land or lauds comprised therein belong not to the tenant but to another person, viz., Pattadar No. 57. To compel the plaintiff to accept such a patta would be to compel her to accept a document denying her right to the property. No doubt where there has been a transfer of a tenant's interest to a third party and the transfer is admitted by the parties concerned, it is competent to, and may be the duty of, the landholder to treat the transferee as the tenant; but where there is a dispute as to the transfer of the rights it is not competent to the landholder to determine the question for himself and refuse to grant patta to the party who was the tenant prior to the dispute. He is to proceed on the footing that the tenancy continues until the third party setting up the cessation of the tenancy establishes it

in a way binding upon the original tenant. The appeal therefore fails, and is dismissed with costs.

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