

**Palaniappa Vs. Raya**

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**Court :** Chennai

**Decided On :** Aug-17-1883

**Reported in :** (1883)ILR7Mad325

**Judge :** Charles A. Turner, Kt., C.J. and ;Hutchins, J.

**Appellant :** Palaniappa

**Respondent :** Raya

**Judgement :**

Charles A. Turner, Kt., C.J.

1. The inam title-deed is certainly misleading as is not unfrequently the case; it is apparent from other and unquestionable evidence that the inamdar was not entitled to the land, but to a share of the revenue, and that the payment mentioned in the inam deed as quit-rent is in fact the two-thirds of the revenue, which was retained by the Government, when one-third was given to the inamdar.

2. Pattas are produced granted to the occupiers as ordinary raiyats by the Revenue authorities, and, in virtue of those pattas, payment of two-thirds of the revenue was made in kind to Government up to 1859 and thereafter in money till, in 1868, the Collector directed that the payment should be made through the inamdar, a procedure which appears to have been contemplated by the Inam Commissioner.

3. Although the Rent Recovery Act defines the term landlord in that Act as including inamdars who may be mere assignees of Government revenue and also as including persons, who farm the land revenue under Government, the term tenant, meaning a person bound to pay rent to a landholder, hardly describes with sufficient accuracy a raiyat who is bound to pay revenue and not rent : and although the legislature may have intended to authorize the assignee or farmer of revenue to avail himself of the summary powers provided for the recovery of the revenue, there is nothing to indicate an intention to alter the status of the revenue-paying raiyat. If the obligation to exchange pattas and muchalkas exists, in determining what are the proper terms of a patta when the landlord is a mere assignee of the revenue, the Court must ascertain what is the proper revenue charge. Section 11, which the respondent relies on as entitling him to fix a rate as if the raiyat were a mere tenant, applies only when it becomes necessary to determine rent. The only patta the respondent would be entitled to compel the appellants to accept is a patta prescribing payment of the revenue, and, having regard to the terms of the inam grant, the patta must embrace the share of the Government as well as of inamdar. The decrees should be modified by amending the declaration to the extent above indicated. We order the respondent to pay two-thirds and the appellant one-third of the costs in all Courts.

**Hutchins, J.**

4. I agree with the Chief Justice that the respondent is only entitled to enforce pattas charging the appellant with a sum equivalent to the revenue assessed on the land. Up to 1868 the appellant had not held the land under him at all, but under Government, paying two-thirds of the assessment to the Revenue authorities and the remaining one-third to the inamdar. His position cannot be prejudiced by the fact that the Revenue authorities chose in 1864 to call their two-thirds a quit-rent and resolved in 1868 to collect it through the inamdar. The appellant is still bound to pay the same as he was paying and no more. I hesitate to say that Section 11 does not apply at all, but if it does, and if the payments to be made by the raiyat can be called rent, I should say that a contract fixing the rate at the revenue assessment ought to be inferred. The inamdar accepted the land when the raiyat was paying that rate, and for fourteen years he has collected that rate and no

more. If he had set up a right to demand more, the raiyat might have gone to the Collector and asked him to modify the arrangement.

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