

Nynappa Servai and ors. Vs. Veeran and ors.

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SooperKanoon Citation : sooperkanoon.com/790400

Court : Chennai

Decided On : Dec-10-1908

Reported in : 4Ind.Cas.722

Judge : Sankaran Nair and ;Pinhey, JJ.

Appellant : Nynappa Servai and ors.

Respondent : Veeran and ors.

Judgement :

1. The plaintiffs represent the Kudivaramdar of the village of Muruppanandal of which trustee of Tirukkakalakudi Devasthanam is the Melvramdar. The lower Court have held that the defendAnt Nos. 1 to 7 and the tenth defendant are not entitled to irrigate certain land in the Nattandal village with the water of the tank in the plaintiffs' village.

2. It is found that the lands of the plaintiffs have been cultivated as wet lands from time immemorial; that the water in the tank is hardly sufficient to irrigate them and the supply of this tank water for the irrigation of other lands must, therefore necessarily cause damage to the plaintiffs. It is also found that the lands held by defendants Nos. 1 to 7 in the Nettandal village, which under an agreement with the tenth defendant, they are attEmpt to irrigate with this tank water, are new lands which were not hitherto supplied with water from this tank.

3. It is now argued on behalf of the defendants Nos. 1 to 7, the appellants before us, that the relation between the plaintiffs and the tenth defendant is only contractual and, therefore, the plaintiffs' remedy, if any, is only against him, and the decision in Chinnappa Mudaliar v. Sikka Naicken 24 M. 36 is relied upon in support of this contention. That ruling has reference to the liability of the Crown to supply water to a ryot. It dissents from an earlier ruling in Ramachandra v. Naryanasami 16 M. 333 and is dissented from in a later decision by Subrahmania Ayyar, J. in Sanharavadivelu Pilli v. Secretary of State for India 23 M. 72 ; 15 M.L.J. 32.

4. As between the Crown and the ryot different considerations may arise. The Crown claims the right of periodical revisions of assessment and the right to distribute the water for the benefit of the public subject only to the ryots' claim for such supply as is sufficient for his requirements and, for that purpose, to make the necessary alterations in the sources of such supply. The Melvaramdar has neither the right of such revision of assessment nor was under any obligation to any other than the ryots of the plaint village for the distribution of this tank water.

5. Whatever might be the case, therefore, as between the Crown and the ryot, the right of the plaintiffs' Kudivaramdars to the customary supply of water from the tank is a proprietary right appurtenant to their ownership of the lands.

6. In this view of the case we dismiss the second appeal with costs.