

Devineni Pattayya and ors. Vs. Chelasani Bhadrappa and ors.

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SooperKanoon Citation : sooperkanoon.com/809552

Court : Chennai

Decided On : Oct-10-1916

Reported in : 37Ind.Cas.918

Judge : Spencer and ;Phillips, JJ.

Appellant : Devineni Pattayya and ors.

Respondent : Chelasani Bhadrappa and ors.

Judgement :

1. We are unable to agree with the opinion of the learned Judge that the suit in question was cognizable in a Civil Court. Essentially the suit was one to recover the emoluments of a carpenter's and blacksmith's service inam and thus the jurisdiction of the Civil Court is taken away by Section 21, Madras Act III of 1895. We are of opinion that in all cases where it is necessary for the plaintiff to allege for the maintenance of his suit that the land in suit is an emolument of a service inam., the jurisdiction will remain with the Collector under Section 13 of the Act. This is the principle laid down in the Full Bench decision in Kesiram Narasimhulu v. Narasimhulu Patnaidu¹⁶ M. L.J. 514. In suits where the plaintiff seeks to recover on the ground of a bare trespass and no question of title is involved, as in Gavara Rami Naidu v. Doddi Rami Naidu (2), or on the ground that the land is his private property, as in Gavara Ramanna v. Adabala Rattayya 5 Ind. Cas. 157 : 20 M. L.J. 91. the suit is not based on any cause of action arising out of the plaintiff's right to recover the property as an emolument of an office; and in such cases the

Civil Court's jurisdiction may not be ousted. In such cases it is not necessary that the plaint should contain any mention of the fact that the land is an emolument of an office. But in the present case it was declared in the plaint that the plaintiff and his ancestors had been enjoying, as of right, the carpenter and blacksmith inam and had been rendering service in connection therewith, and that when the plaintiff demanded the defendants Nos. 1 to 4 and 7 to 9 to deliver over possession of the land, they ignored his right and intimated to him that defendants Nos. 7 to 13 had an independent right to the property. Where, as in the present case, the defendants set up a rival claim to the office, it is obviously necessary for the claim to be adjudicated by the Collector and not by a Civil Court. Mr. Rama-doss argued from the second proviso to Section 13 that in a case where it is not disputed that the emoluments of the office consist of land, a suit will always lie in the Civil Court, because in such a case it is not necessary for the Collector to assume that the assignment of revenue constitutes the emoluments. This view found favour With Sabramanya Aiyar, J., in *Kesaram Narasimhulu v. Vuddanda Narasimhulu Patnayudu* (J) and he consequently was of opinion that in all cases where the emoluments of the office consist of the land itself, the suit should be brought in the Civil Court. Moore, J., who sat with him did not agree in this view and when the case came up on. appeal before three Judges in *Kesiram Narasimhulu v. Narasimhuu Patnaidu* 16 M L.J. 333. the opinion of subranaya Aiyar, J. was overruled.

2. We allow these appeals with costs and restore the order of the District Judge which supported the view of the District Munsif, that the suits were cognizable by the Revenue Court and that the plaint should be returned for presentation to such Court.