

Sevathiyarudayan Vs. Karuppudayan

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Court : Chennai

Decided On : Apr-15-1912

Reported in : 14Ind.Cas.703

Judge : Wallis and ;Ayling, JJ.

Appellant : Sevathiyarudayan

Respondent : Karuppudayan

Judgement :

1. The lower Courts have found that, with a view to injure the defendant, the Village Officers brought to sale the plaint lands which belonged to the defendant, but were registered in the name of another person for arrears due by such person on the other lands belonging to him without personal service on him and without any service on the defendant who was known to them to be the true owner, in direct disobedience to the Board's Standing Orders, and that the sale was, in consequence, fraudulent. It also appears that it was illegal as opposed to the provisions of Section 44 of the Revenue Recovery Act, as they sold one item of 1 acre and 84 cents, the largest in the patta, while there were three smaller items included in the patta, and the arrear was only Rs. 1-14-0; the sale, therefore, was both fraudulent and illegal. It was objected that the defendant did not take steps to sot it aside under Section 38 within thirty days, but there is nothing to show he ever heard of it until the present plaintiff tried to oust him three years later, and, in any case, the defendant is entitled to rely on the illegality of the sale as a defence

to a suit to eject, even though he had not set it aside. Ramanasari v. Muthusami Naik 30 M. 248. This second appeal is dismissed with costs.

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