

(1967) 11 KL CK 0018
High Court Of Kerala
Case No: S.A 251 of 1966

Lakshmi Marassiar and others

APPELLANT

Vs

Gopalakrishnan Nambiar and
others

RESPONDENT

Date of Decision: Nov. 29, 1967

Citation: (1968) KLJ 494

Hon'ble Judges: P. T. Raman Nayar, J

Bench: Single Bench

Advocate: T. Narayanan Nambiar, T. Karunakaran Nambiar, for the Appellant; K.T. Harindranath, for the Respondent

Final Decision: Dismissed

Judgement

P. T. Raman Nayar J.

1. The rent receipts, Ex. B-3 and B-4, obtained by the plaintiffs' predecessor (and one-time karnavan) the 2nd defendant from the jenmi, the 1st defendant, show that the lease was not of the land itself but only of the coconut trees standing thereon are the actual words used with the implied license to enter on the land to collect the coconuts; and, the entry in the "Remarks" column implying at best a duty on the part of the lessee (and a corresponding license in his favor) to do the necessary tillage cannot by any stretch mean that there was a lease of the land or that possession thereof (in the legal sense of the word, "possession") was given to the lessee. The first court was therefore wrong in holding that the plaintiffs had a lease of the land itself and the lower appellate court was right in restricting the decree in their favor to the trees. I might add, since the appellant plaintiffs place reliance on the decision in Anandan v. Kunhi Pokker 1961 KLT 805 to support their claim for the land itself, (a claim upheld by the first court on the strength of that decision) that that decision is not authority for the proposition advanced, namely, that a melpattam or a lease of trees accompanied by a right or duty of tillage necessarily involves a lease of the land on which the trees stand. There, the lease was a

verumpattam of the land itself with the trees and buildings thereon - it was not a lease of the trees only and therefore not a mere melpattam. But there was a clause prohibiting the lessee from planting trees (making kuzhikoors) and reserving that right to the lessor. Therefore it was contended that the lessee was not a cultivating verumpattamdar so as to entitle him to the benefit of section 21 of the Malabar Tenancy Act. And, all that was held was that the cultivation carried on by the lessee by acts such as turning the soil and manuring the trees in accordance with the terms of the lease made him a cultivating verumpattamdar.

2. I dismiss this appeal with costs.