

(1955) 08 MAD CK 0024

Madras High Court

Case No: C. R. P.No. 1560 of 1954

P. T. C. Kannappa Chettiar

APPELLANT

Vs

V. Chetty Ranganatham Chetty

RESPONDENT

Date of Decision: Aug. 26, 1955

Hon'ble Judges: Panchapakesa Ayyar, J

Bench: Single Bench

Advocate: V. T. Rangaswami Ayyangar and T. E. Raghavachari, for the Appellant; G. R. Jagadisan, for the Respondent

Final Decision: Dismissed

Judgement

Panchapakesa Ayyar. J.

1. This is a petition filed by one Kannappa Chettiar of Vellore, to revise arid set aside the order of the District Judge of North Arcot in C.R.P. No. 11 of 1934, on his file, dismissing his petition for setting aside the order of the Subordinate Judge refusing to grant him an eviction order against his tenant Ranganatham Chetty who waft carrying on shroff business in the premises taken on lease from him. The facts are briefly these:2. Ranganatham Chetty took on lease the premises from the petitioner Kannappa Chettiar for carrying on a shroff business. As strictly understood in the Be parts, a "shroff"s business consists in buying and selling gold, silver and other jewels manufactured by others, and does not usually include the manufacture of such jewels by the shroff himself for purposes of sale, But it is seen-from the orders of the three Courts below that Ranganatham Chetty was an enterprising shroff, and had, even from the outset, dabbled in manufacturing jewels, for sale, and that the petitioner Kannappa Chettiar was aware of this and had kept quiet in those spacious old days when buildings were not so scarce. But when buildings became scarce, he applied for eviction of Ranganatham Chetti before the Rent Controller, urging two grounds viz., that the premises were being put to a different use not originally contemplated, namely, for conducting the business of manufacturing gold jewels for sale, and not merely for buying and selling gold jewels already manufactured by

another, and secondly, that he wanted the premises for his own use, as he had been carrying on his shroff business in very congested premises, which were wholly inadequate for his expanding business, and he had also resolved to run a pawn-broker's shop in the premises and had obtained a pawn-broker's licence.

2. The learned Rent Controller held that the allegations that Kannappa Chettiar wanted the premises bonafide for his own expanding business and for conducting a pawn-broker's business was wholly without basis, and had been made only in order to get Ranganatham Chetti evicted. But he agreed with the other contention, namely, that the manufacture of jewels in the premises would amount to putting the premises to a use not originally contemplated, and so granted an order for eviction. Ranganatham Chetti appealed, and the Subordinate Judge of Vellore, who heard the appeal, held that really the premises had not been put to a use not originally contemplated, and that actually the manufacture of jewels by a shroff for the purpose of sale would not be putting the premises for such a different use not contemplated at the time of letting, and that the landlord was also aware that Ranganathan Chetti was manufacturing jewels for sale even from the outset and had not demurred. So he set aside the Rent Controller's order, allowed the appeal and refused eviction. Thereupon, Kannappa Chettiar, filed C. R. P. No. 11 of 1954 in the Court of the District Judge. North Arcot, urging the same old two grounds. The learned District Judge held against him on both the grounds, and dismissed the civil revision without costs. Hence this civil revision petition.

3. I have perused the entire records, and heard the learned Counsel on both sides. Mr. V. T. Rangaswami Aiyangar, the learned Counsel for the petitioner, raised the same old two grounds before me. He said that there was nothing in law or fact to prevent a person who was only carrying on a shroff's business from undertaking a pawn-broker's business, requiring more spacious premises and that all the three Courts below erred in holding that his alleged idea of starting a pawnbroker's business and obtaining a pawn broker's licence for that purpose, were only mythical poses assumed with a desire to evict Ranganathan Chetti by hook or by crook, and were therefore not bona fide.

4. While I agree with Mr. Rangaswami Aiyangar that it is not only permissible, but even praise worthy, on the part of a man to increase his business and expand it, and to start another honest business, like a pawn broker's business, adding it to the old one. the shroff's business, I must say that the question as to whether Kannappa Chettiar's applying for the pawn broker's licence was really in order to carry on a pawn-broker's business, or was only in support of his pretence that he was going to start a pawn-broker's business, in order to evict Ranganathan Chetti on the ground that he required more spacious premises for carrying on the pawn broker's business, is quite a different one and has to be considered separately. All the three Courts detached this question, considered it separately, and arrived at the unanimous conclusion that Kannappa Chettiar has no real intention of starting a

pawn-broker's business, and had got the pawn-broker's licence only With the intention of supporting his pretence that he was going to start such a business, in order to get Ranganathan Chetti evicted. In view of the concurrent findings by the three Courts below on this question of fact, I do not think that I will be justified in this civil revision petition to allow the petitioner's counsel to rake up the matter once more. So this contention fails. The next contention was that the learned District Judge and the learned Subordinate Judge grievously erred when they considered that a shroff, when proceeding to manufacture jewels for selling them, in addition to the time old definition of the shroff as a person buying and selling jewels manufactured by others was not putting the premises to a new use not originally contemplated, and in not evicting Ranganathan Chettiar on that ground, I cannot agree. I agree with the learned District Judge that in all such cases a liberal interpretation ought to be put, in the interests of enterprise, and in order to prevent chicanery by too narrowly interpreting the scope of a business. If the business was totally different, and such as could not have been, contemplated at the time of the lease, it will certainly be a strong ground for eviction. Thus, if Ranganathan Chettiar had started a butcher's shop in these premises, and begun to sell meat, instead of jewels, this would have been a strong ground for evicting him. But when he merely began to manufacture jewels for sale in the premises, instead of confining himself to buying and selling jewels manufactured by others, it will be, in my opinion, still within the frontiers of his original business. Suppose one of the jewels he brought for the purpose of sale broke, is he to be deemed to have started another business when he mends that jewel in those premises? He was admitted to be melting gold in the those premises without any demur by Kannappa Chettiar. Indeed, the Courts below have found that he was manufacturing jewels for sale in the premises even from the outset, and that Kannappa Chettiar was aware of it, and had not demurred. I am afraid, that in his anxiety to get Ranganathan Chettiar evicted and recovering these desirable premises for Himself, or for letting them out to others on a higher rent, Kannappa Chettiar has tried to restrict the frontiers of "permissible business" under the original lease. That attempt of his has been rightly detected and rejected by the Sub Judge and District Judge. This civil revision petition deserves to be and is hereby dismissed with costs.