1967 *Present :* **H. N. G. Fernando, C.J., and G. P. A. Silva, J.**

N. VISUVANATHAN, Appellant, *and* M. THURAIRAJAH and another, Respondents

S. C. 721/64—D. C. Chavakachcheri, 2634/L

Paddy Lands Act—Section 63—Meaning of term " tenant-cultivator ".

The protection conferred by the Paddy Lands Act to an individual is enjoyed only by a person who by his own labour and that of members of his family cultivates a paddy land. A person is not a " tenant-cultivator " within the meaning of the definition of that term in section 63 of the Paddy Lands Act if he employs hired labour for any two of the three different kinds of work contemplated in the definition, viz., ploughing, sowing and reaping ; and in regard to the watching and tending of crops, this must be done only by the tenant himself or members of his family.

APPEAL from a judgment of the District Court, Chavakachcheri.

M. S. M. Nazeem, with *M. Sivananthan,* for the defendant-appellant.

C. Ranganathan, Q.C., with *R. Manikkavasagar,* for the plaintiffs-respondents.

Cur. adv. vult.

October 5, 1967. H. N. G. FERNANDO, C.J.—

The appeal in this case was against a decree of the learned District Judge ordering the ejectment of the defendant from a paddy land and for damages. The decree was entered on the basis that the defendant was a lessee under the plaintiff, and committed default in complying with the conditions of his lease.

Learned Counsel for the defendant in appeal has argued that the defendant was a tenant-cultivator within the meaning of the Paddy Lands Act and that therefore his ejectment cannot be ordered except in terms of that Act.

According to the definition of ' tenant-cultivator ' in section 63 of the Act, as amended in 1961, a tenant-cultivator is a person who " by himself or by any member of his family carries out (*a*) two or more of the operations of ploughing, sowing and reaping, and (*b*) the operation of tending or watching the crop in each season during which paddy is cultivated." I am in agreement with the learned District Judge that the defendant has not brought himself within the scope of the definition.

It would appear that the extent of 8 acres which is involved in this action is only part of a tract of 35 acres, the cultivation of which has been undertaken by the defendant. His evidence at the trial was that he bought a tractor to plough his fields and drove the tractor whenever he could ; if he was ill he employed a casual driver. Whenever he needed

labourers he engaged labourers for hire. Earlier, at an inquiry before the Assistant Commissioner of Agrarian Services, he had admitted that the *harvesting* was done with hired labour, sometimes on a contract basis and sometimes on payment in cash or in kind. On that occasion he admitted that he has a licensed tractor driver to do the work of *ploughing*, and that he employed labourers also for the purpose of *sowing* the land. Considering that the entire tract is of an extent of 35 acres it is most unlikely that the defendant could in fact have himself done two (or even one) of the operations of ploughing, sowing and reaping ; and indeed he could not seriously maintain that position in his evidence.

I think it well on this occasion to point out that the Act in defining the expression " tenant-cultivator ", only clarifies the ordinary meaning of that expression. The protection conferred by the Act to an individual is enjoyed only by a person who actually by his own labour and that of members of his family, cultivates a paddy land. The definition contemplates three different kinds of work (ploughing, sowing and reaping) for which actual labour is necessary, and if hired labour is in fact employed for two of these kinds of work, then the cultivator is not a " tenant-cultivator " ; and in regard to the watching and tending of crops,this must be done only by the tenant himself or members of his family. These conditions certainly have not been fulfilled in this case.

For these reasons the appeal was dismissed with costs after argument.

SILVA, J.—I agree.

Appeal dismissed.