

(1909) 12 MAD CK 0027
In the Madras High Court

A. Ramanathan Chettyar

APPELLANT

Vs

P.S. Anathanarayana Iyer and Another

RESPONDENT

Date of Decision : 08-12-1909

Acts Referred:

Citation : (1910) ILR (Mad) 412 : 5 Ind. Cas. 291

Hon'ble Judges : Ralph Benson, J;Abdur Rahim, J

Bench : Division Bench

Judgement

1. A preliminary objection is taken that the order of the District Judge u/s 18, Act XX of 1863, is not open to revision u/s 622 of the CPC and reliance is placed on the case of Venkateswara, In re 10 M. 98. The petitioner's Vakil contends that the District Judge acted illegally in the exercise of his jurisdiction within the meaning of Section 622 of the CPC in that he did not give his decision on a bare perusal of the application for leave to sue, but made some enquiry and received an affidavit from the Manager in reply to the allegations in the petition. No authority in support of this view is cited and we think that it is unreasonable. Section 18 would afford no protection against improper suits if the Court would refuse leave only if the facts alleged in the petition did not disclose any cause of action, for any plaint which disclosed no cause of action would be rejected under the General Law of Procedure independently of the special provision in Section 18. Moreover the provision in Section 19 of Act XX of 1863 that the Court before giving leave may order the Manager and other temple authorities to file accounts, negatives the contention of the petitioner's Vakil. That contention has also been negated in the recent unreported decision of this. Court in C.H.P. No. 20 of 1908.

2. The District Judge, then did not act illegally in the exercise of his discretion, and no petition u/s 622 Civil Procedure Code, lies (Venkateswara, In re 10 M. 98.

3. We dismiss this petition with costs.