

(1914) 01 MAD CK 0004
In the Madras High Court

Adusumalli Venkataratnam

APPELLANT

Vs

Senkarayanna

RESPONDENT

Date of Decision : 26-01-1914

Acts Referred:

Citation : 24 Ind. Cas. 283 : (1914) 1 LW 298

Hon'ble Judges : Spencer, J;Sadasiva Aiyar, J

Bench : Division Bench

Judgement

1. The petitioner (plaintiff) wants an amendment of the order issued by this Court in Civil Miscellaneous Appeal No. 30 of 1912 on the ground that

the order as drawn up by this office contains clerical and arithmetical errors. The judgment of this Court in the said Civil Miscellaneous Appeal

decided that the defendants are entitled to a deduction of Rs. 4 per acre in respect of the claim for mesne profits made by the decree-holder in

Execution Proceedings No. 75 of 1908 in the lower Court. The judgment of this Court begins by saying, ""The District Judge is wrong in not

making allowance for the cultivation expenses incurred by the defendants.

2. The District Judge's finding, as appears from page 8 of the printed papers, is that the defendants Nos. 1 and 2 took away in January 1904

almost all the heaped grain that the plaintiffs Nos. 1 and 2 had harvested in fasli 1313."" We take this finding to mean that, without incurring

expenses, for cultivation in fasli 1313, the defendants Nos. 1 and 2 took away almost all the produce raised and harvested by the plaintiffs Nos. 1

and 2 in that fasli. It appears also from other records in the suit that the total harvest raised was 60 candies, of which the plaintiff had taken away

only 4 candies and that the remaining 56 candies were taken away by

defendants Nos. 1 and 2. The order of this Court which allows cultivation expenses incurred by defendants Nos. 1 and 2 cannot, therefore, relate to fasli 1313.

3. As regards the other faslis, the arithmetical errors made in the lower Court and repeated in this office in drawing up the order of this Court are

not denied and those errors must and will be corrected. ""With regard to the Pleader's fee allowed to the petitioner, the petition out of which the

Appeal against Order No. 30 of 1912 was filed in this Court was a petition put in under the old Section 244, read with the old Section 212, and it

is, therefore, a petition in execution proceedings in respect of which, under Rule 32 of the Civil Rules of Practice, a Pleader's fee at the rate of 1

1/4 per cent. can be allowed, The prayer for allowing 5 per cent. as Vakil's fee is, therefore, rejected.

4. The order drawn by this office will be amended in accordance with the above minutes.

5. There will be no order as to the costs of this petition