

(1929) 12 MAD CK 0031
In the Madras High Court

D.B. Vedavalli Ammal

APPELLANT

Vs

K.S. Ganpathy Iyer and Another

RESPONDENT

Date of Decision : 20-12-1929

Acts Referred:

Citation : AIR 1930 Mad 626

Hon'ble Judges : Jackson, J

Bench : Division Bench

Judgement

Jackson, J.—The petitioner seeks to revise the order of the Subordinate Judge of Trichinopoly declining to restrain an advocate, Mr. K.S. Ganapathy, Iyer, from appearing on behalf of the plaintiff, in O.S. No. 170 of 1924, in which petitioner is defendant 1. The petitioner in the lower Court relied upon deliberate abuse which the learned Judge has condemned in language which is none too strong and which I endorse. When private quarrels are put into professional hands the proceedings must conform to the forms of courtesy common among gentlemen, and it is surprising that an affidavit like that of P.V. Manikkam Pillai was ever filed in a Court of law. In this Court Mr. Mockett has very properly entirely disassociated himself from its allegations.

2. Mr. Ganapathy Ayyar was briefed in O. S No. 114 of 1913 on behalf of one Vedavalli who sued to set aside the adoption of one Rajaratnam. She succeeded. In O.S. No. 170 of 1924 the brother of Rajaratnam sues to declare this adoption valid, and Mr. Ganapathy Ayyar has accepted a brief on his behalf. Rule 20 of the Civil Rules of Practice is confined to the conduct of a pleader in a suit or connected proceeding and affords no guidance for the conduct in an entirely different suit. In Ramakrishna Pillai v. Balahrishna Ayyar AIR 1921 Mad. 666, the rule is read as referring to a subsequent suit if it is connected with an earlier one. Presumably, the connection must be direct, such as, for instance, a suit to set aside the former suit on plea of fraud. An indirect connexion through the facts being similar would not, I think, attract the provisions of the rule.

3. Therefore, in a case like the one before me, guidance must be sought from the

practice of the Bar in England. In Halsbury, Vol 2, page 407, it is laid down that counsel ought not to accept a brief in any case in which he would be embarrassed in the discharge of his duty by reason of confidence reposed in him by the other party. The matter seems to be left to the good feeling of the advocate, but presumably if it was one where the advocate's embarrassment was self-evident, and his action an obvious scandal, it would be brought before the General Council of the Bar.

4. In the present case eleven years had elapsed since the filing of the previous suit, and as the plaintiff in that suit was only seeking to prove a negative, it is difficult to imagine what confidence she could have imparted which would embarrass Mr. Ganapathy Iyer.

5. There is no reason not to accept his affidavit. I therefore decline to interfere with the lower Court's order.

6. The petition is dismissed with costs.