

(1914) 08 MAD CK 0051
In the Madras High Court

Jambagathammal

APPELLANT

Vs

Kanakathammal and Others

RESPONDENT

Date of Decision : 06-08-1914

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 40 Rule 1(d)

Citation : AIR 1915 Mad 355(2) : 25 Ind. Cas. 645

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

Bench : Division Bench

Judgement

1. We do not see sufficient reason to interfere with the discretion of the lower Court in refusing to direct the Receiver not to spend money for the conduct of the defence of the minor 2nd defendant, especially as the learned Subordinate Judge has directed the Receiver to obtain the orders of the Court before actually disbursing amount or incurring the expenditure." We take it that, if necessary or desirable, the lower Court will pass orders that the Receiver shall give security for restitution to the estate of such expenses in certain events.

2. We, therefore, dismiss the appeal with costs without deciding the rather difficult question whether an appeal really lies from the order of the Subordinate Court, that is, whether" the order really falls under Order XL, Rule 1 (d), of the Civil Procedure Code. See Kamalathammal v. Srinivasachariar 14 Ind. Cas. 277 : 11 M.L.T. 383 : Mohunt Anant Das v. Ram Perhash Das 5 Ind. Cas. 69 : 14 C.W.N. 183; Civil Revision Petition No. 555 of 1912; Eastern Mortgage Agency Co. Ltd. v. Fakurud-din Mahomed Chowdhury 17 Ind. Cas. 849 : 17 C.W.N. 1 and Keshobati Kumari v. MacGregor 35 C. 568 : 12 C.W.N. 648 .