
(1915) 10 MAD CK 0032
In the Madras High Court

Karri Narasayya

APPELLANT

Vs

Thavvala Nageswara Rao and Another

RESPONDENT

Date of Decision : 01-10-1915

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 115

Citation : AIR 1916 Mad 789 : 31 Ind. Cas. 209

Hon'ble Judges : Sadasiva Aiyar, J

Bench : Single Bench

Judgement

Sadasiva Aiyar, J.—As regards the burden of proof the authority of the decision of Seshagiri Aiyar, J., in Vegoti Chengiah v. Putta Ramudu (1914) M.W.N. 367 relied on by the Subordinate Judge has been strengthened by the decisions of Division Bench in Kidambi Jagannathacharyulu v. Pidipite Kufumbarayadu 25 Ind. Cas. 891 and Ravulapati Papi Reddi v. Nanduru Peda Venkatacharyulu 26 Ind. Cas. 67 : (1914) M.W.N. 794. My opinion contra in earlier cases is not, therefore, the predominating or prevailing opinion in this Court.

2. If the burden of proving that the inamdar did not own the kudivaram at the time of the inam grant lay on the defendants, the Subordinate Judge holds that they have not discharged that burden. He refers to various circumstances and pieces of documentary evidence in paragraphs 12 to 14 of his judgment to support his conclusion in favour of the inamdar. Even if he has misconstrued a portion of the documentary evidence or ignored important evidence in the case (as contended by Mr. Ramadoss), I do not think that it is a fit case for interference u/s 115, Civil Procedure Code. No doubt, if the Appellate Court by an error of law finds jurisdiction in the Civil Courts, or denies jurisdiction to the Civil Courts, interference in revision u/s 115 is permitted. Vuppuluri Atchayya v. Kanchumarti Venkata Seetarama Chandra Rao 18 Ind. Cas. 555. But where the jurisdiction depends on a finding of fact, unless that finding of fact rests on no evidence whatever, revision u/s 115, Civil Procedure Code, is not, in my opinion, legally permissible. Here, even if the burden ,of proof lay on the plaintiff there is

evidence on record from which the Court was entitled to find the facts in the plaintiff's favour so as to give Civil Courts jurisdiction.

3. The petition is, therefore, dismissed with costs.