
(1906) 09 MAD CK 0009
In the Madras High Court

Kesavarapu Ramakrishna Reddi

APPELLANT

Vs

Kotta Kota Reddi and Others

RESPONDENT

Date of Decision : 04-09-1906

Acts Referred:

Court Fees Act, 1870 — Article 1 Schedule I

Citation : (1907) ILR (Mad) 96 : (1906) 16 MLJ 458

Judgement

1. We are of opinion that the question whether the appeal in the present case has been properly valued is governed by Article 1 of Schedule I to the Court Fees Act. Assuming that Section 7 of the Act applies to the computation of the fee for the purposes of an appeal as well as for the purposes of the plaint, Sub-section (i), has no application to the present case, since for the purpose of the appeal in the present case no amount is claimed. The question raised in the appeal is not a question of amount, but the question whether the lands claimed by defendants 6 to 9 are liable to be proceeded against for the mortgage debt. It is not suggested that any other of the provisions of Section 7 are applicable to the case. The question, therefore, is what is the value of the subject-matter in dispute in the appeal independently of Section 7 of the Act. The amount of the decree is not in dispute, the liability of the lands other than the lands claimed by defendants 6 to 9 is not in dispute. The question in dispute is the liability of the lands claimed by defendants 6 to 9 to be proceeded against for the debt. If the plaintiff succeeds, on appeal, he will no doubt be entitled to proceed against the lands claimed by the defendants 6 to 9 for the satisfaction of the whole debt, but he can only recover the sale proceeds of these lands. The lands have been valued at Rs. 4,000, and unless this valuation is successfully impeached by the respondents, it must on the principle of the decision in *Krishnama Chariar v. Srinivasa Ayyangar* ILR 4 M. 339, be taken as the value of the subject-matter in dispute in this appeal. The present case is distinguishable from *Vasudeva v. Mahadeva* i.L.R. M. 326. In that case it was held that the value of the subject-matter in dispute in appeal must be calculated according to the provisions of Section 7(ix). Section 7 has no application in the present case.

2. The principle of the decision in Krishnamachariar v. Srinivasa Ayyangar ILR M. 339 was applied in Venkappa v. Narasimha ILR 10 M. 187 and we think that Venkappa v. Narasimha ILR M. 508 was rightly decided.
3. In Ramasami v. Subbusami 3 there is nothing to show that the mortgage debt was in excess of the value of the exonerated property so as to raise the question which we have had to consider in the present case.
4. We are unable to agree with the decision in Appeal No. 46 of 1903 (unreported) since in that case, though this is not stated in the order, the mortgage debt was in excess of the valuation of the exonerated property.
5. We, therefore, hold that the present appeal has been properly valued.