
(1897) 12 MAD CK 0003
In the Madras High Court

Koti Pujari

APPELLANT

Vs

Manjaya and Others

RESPONDENT

Date of Decision : 15-12-1897

Acts Referred:

Citation : (1898) ILR (Mad) 271

Hon'ble Judges : Subramania Ayyar, J;Benson, J

Bench : Division Bench

Judgement

1. We think that the Courts below were in error in holding that the claim either for post diem interest or for the portion of principal said to have

been disallowed in a previous suit were unwarrantable additions to the claim made for the purpose of changing the venue, nor do we think that the

Courts could properly entertain such a plea as a matter preliminary to determining the Court in which the suit ought to be brought. There is, in the

present case, no question of over-valuation of the subject-matter of the suit. The contest is as to whether the plaintiff can recover the whole or only

a part of the sums claimed by him in the suit, viz., a portion of the principal and post diem interest. These are the very questions involved in the suit

and are not preliminary questions connected with the proper valuation of the subject-matter of the suit. Very grave inconvenience and confusion

would result if pleas raised by the defence as to the right of the plaintiff to portions of the relief sought by him and which he would be entitled to

ON establishing the allegations of the plaint, were allowed to be treated as preliminary questions affecting the valuation of the suit, and which ought

to be determined in order to ascertain the Court in which the suit should be brought. In the present case the claim for post diem interest is one

which the plaintiff is entitled to raise, having regard to the recent decisions on the subject, while the claim for the sum said by the defendant to be

res judicata is one which the plaintiff can establish if he can show that there is no res judicata, and that the debt was incurred for purposes binding

on the defendant. If the valuation of the suit is right, no question of res judicata by virtue of the decision in the District Munsif's Court can arise,

since that Court could not have tried the present suit.

2. We have not overlooked Lakshman Bhatkar v. Babaji Bhatkar ILR 8 Bom. 31 on which much stress was laid by the respondents' pleader, but

we think that the present case is distinguishable from it. Were it otherwise, we should hesitate to go so far as the learned Judges seemed disposed

to go in applying the principle enunciated by him with reference to the duty of the Court in cases of alleged over-valuation.

3. We must therefore set aside the orders of the Courts below, and direct that the District Judge do receive the plaint and dispose of it according

to law.

4. Costs throughout will abide and follow the result.