
(1901) 01 MAD CK 0004
In the Madras High Court

Maharajah of Jeypore

APPELLANT

Vs

Jammanadhora and Others

RESPONDENT

Date of Decision : 08-01-1901

Acts Referred:

Agency Rules, 1924 — Rule 20

Citation : (1901) ILR (Mad) 345

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

Bench : Division Bench

Judgement

1. This is an application presented by the Maharajah of Jeypore under Rule No. XX of the Agency Rules praying the High Court to direct the

Agent to the Governor in Vizagapatam to review his judgment in Appeal Suit No. 5 of 1898 reversing: the decision of the Senior Assistant Agent

giving a decree in favour of the Maharajah for possession of certain villages, on the ground that he was entitled to resume the villages, as the terms

on which they had been granted to the defendants had been violated.

2. On behalf of the defendants two preliminary objections are raised :~(1) that the latter part of Rule No. XX under which the application is made

is ultra vires, and that therefore no such application can be entertained by this Court; and (2) that even if the latter part of Rule No. XX is not ultra

vires this application should not have been presented to this Court but to the Governor in Council under Rule No. XXXI.

3. As regards the first objection Rule No. XX runs as follows: ""All decrees passed by the Agent on appeals from decrees of his subordinates shall

be final, the Sadder Court having the power on special grounds be require him to review his judgment!, as directed by them.

4. The contention of the defendants is that the portion of the rule which follows the word "final" is ultra vires, inasmuch as the rules purport to be

framed u/s 1 of Act XXIV of 1839 and that section, it is contended, merely authorizes the Governor in Council to determine in what classes of

suits the decision of the Agent shall not be liable to appeal to the Sudder Court but shall be final, and does not authorize the Governor in Council to

allow the Sudder Court to direct a review in cases in which no appeal lies. We are unable to accept this contention. Section 4 runs as follows:

And it is hereby enacted, that it shall be competent to the Governor in Council of Fort Saint George, by an Order in Council, to prescribe such

rules as he may deem proper for the guidance of such Agents, and of all the officers subordinate to their control and authority, and to determine to

what extent the decision of the Agents in civil suits shall be final, and in what suits an appeal shall lie to the Sudder Adalat, and to define the

authority to be exercised by the Agents in criminal trials, and what cases he shall submit for the decision of the Faujdari Adalat.

5. The defendants rely upon the observations of the learned Chief Justice in Maharajah of Jeypore v. Papayamma ILR 23 Mad. 329 to the effect

"that, in this section, the words "to what extent" mean substantially the same as the words "in what suits" in the following clause of the same section.

With all deference to the learned Chief Justice we are unable to take the same view.

6. The latter part of the section beginning with the words "and to determine" seems in substance to lay down that the Governor in Council may

determine, firstly, in what suits an appeal against the decision of the Agent shall lie, and secondly, in cases, where no appeal lies, the conditions

subject to which the Agent's decision shall be final, and it is with reference to the second matter that the words "to determine to what extent the

decision of the Agent shall be final" were intentionally inserted. If it was not intended to provide for two distinct matters there would have been no

need whatever for the introduction of this clause. If the intention of the Legislature was to provide for one matter only, viz., in what suits an appeal

should lie, that would have been sufficiently provided for by the rest of the section without this clause. Moreover, the words "to what extent" seem

to refer in their grammatical sense to cases where, though no appeal lies, the finality of the decision is not intended to be absolute, but is subject to

qualifications or conditions. In this view Rule No. XX, which provides that the finality of the Agent's decision shall be subject to the power of the

Sudder Court to direct the Agent to review his decision on special grounds, is not, in our opinion, ultra vires.

7. As regards the second objection we are clearly of opinion that Rule No. XXXI has no application to a case like the present under Rule No.

XX.

8. The express language of Rule No. XXI, relating to the appeals to the Sudder Court, shows that an appeal petition may be presented direct to

the Sudder Court and we can see no reason why an application to the Sudder Court to act under Rule No. XX should be presented to the

Governor in Council to be passed on by him, as a matter of course, to the Sudder Court.

9. Moreover, as contended on behalf of petitioner, the Sudder Court may act of its own motion under Rule No. XX, as the rule does not require

any application by a party as a condition precedent to the exercise of its powers.

10. We therefore overrule the preliminary objections.

11. [The Court then proceeded to deal with the petition on the merits, and in the result directed the Agent to review his judgment in the light of the observations so made]