

(1938) 05 MAD CK 0005
In the Madras High Court

Manickavachakam Chettiar

APPELLANT

Vs

The Official Receiver

RESPONDENT

Date of Decision : 12-05-1938

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 115

Citation : (1939) 50 LW 459 : (1939) 2 MLJ 44

Hon'ble Judges : Burn, J

Bench : Division Bench

Judgement

Burn, J.—It is very clear to me that this is not a case for interference in revision u/s 115 of the Code of Civil Procedure. The jurisdiction of

the learned Subordinate Judge is not questioned. It could not be, since it is by law the duty of the trial Court to frame the issues. When I ask what

is the illegality or material irregularity in the exercise of jurisdiction, Mr. T.M. Krishnaswami Aiyar can say no more than that, in his view, the

burden has been wrongly thrown on his client in issues 1, 3 and 6. But this, namely, which way the burden was to be thrown, was the precise

question which the learned Subordinate Judge had to decide. There is no allegation that the learned Subordinate Judge has acted perversely or has

omitted to consider anything which it was his duty to consider. The sole complaint against him is that he has come to the wrong decision. That, in

my opinion, can never be a ground for interference in revision. With all respect to Mockett, J. and Stodart, J., whose decisions in Sri Tripura

Sundari Cotton Press Co., Ltd. and Another Vs. Addepalli Venkata Gurunadha Ramaseshayya, and Natesan Chettiar Vs. Mariyayee Ammal,

have been cited before me on behalf of the petitioner, I prefer to follow the principles laid down by a Full Bench of this Court in Kristamma Naidu

v. Chapa Naidu I.L.R.(1894) 17 Mad. 410 (F.B.). It may well be said that it is the duty of this Court to interfere in revision to correct lower

Courts when they act perversely; it can never be said that we should interfere with them in revision merely because they have decided wrongly. It is

not, in my opinion, any part of the legitimate duties of this Court to help lower Courts to frame issues. They alone have jurisdiction to frame the

issues in the suits which come before them for trial, and as their Lordships of the Privy Council have so often remarked, they have jurisdiction to

decide wrongly as well as rightly.

2. Since there is not even an allegation of perversity against the learned Subordinate Judge I decline to consider the questions raised on their merits.

I am satisfied that there is no ground for interference in revision u/s 115 of the CPC and accordingly I dismiss this petition with costs.