

(1911) 01 MAD CK 0032
In the Madras High Court

Nagaraja Pillai

APPELLANT

Vs

Vythinatha Iyer and Others

RESPONDENT

Date of Decision : 25-01-1911

Acts Referred:

Citation : 9 Ind. Cas. 672

Hon'ble Judges : Ayling, J;Abdur Rahim, J

Bench : Division Bench

Judgement

1. As regards the preliminary objection that we have no power to revise the order in question we are of opinion that Section 15 of the Charter Act

is sufficiently wide to cover a case of this nature (See Somasundram Chettyar v. Manicka Vasaka Desika Gnana Sambanda Pandora Sannadhi 31

MP. 60 : 3 M.L.T. 246 and Veerabadran Chetty v. Nataraja Desikar 28 M. 28 though it may be doubted whether the words of Section 115 of

the CPC of 1908 were intended to apply to interlocutory orders. It is not, however, necessary to decide the latter question.

2. On the merits we think there can be very little doubt that by the words ""the production...is not in the interests of public service"" in the letter of the

Engineer to the District Munsif it was intended to convey that in the opinion of the Engineer the production of the documents would be detrimental

to the interests of the public within the meaning of Section 124 of the Evidence Act under which the privilege was claimed. It is also contended that

the District Munsif's finding that the communication in question was made in official confidence is not based on sufficient data and that he was

wrong in not inspecting the documents.

3. We are unable to say upon the materials placed before us and in the exercise

of our powers of revision that the District Munsif was wrong in the circumstances of the case in saying that the communication in question being from a subordinate officer, was prima facie of a confidential nature.

The petitioner, it must be noticed, did not ask the District Munsif to take any evidence on the point. As regards the refusal of the District Munsif to inspect the documents Section 162 of the Evidence Act leaves the matter to the Court's discretion and we are not in a position to hold that the discretion has not been properly exercised in this case. This petition is dismissed with costs.