

(1925) 09 MAD CK 0056
In the Madras High Court

(Peria Nambi) Srinivasachariar

APPELLANT

Vs

Kuna Ramasamy Naicker and Others

RESPONDENT

Date of Decision : 30-09-1925

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 92

Citation : AIR 1926 Mad 509

Judgement

1. This is an application to revise the order of the Subordinate Judge of Dindigul directing payment of Court-fee on the amount mentioned in the

plaint as damages on the ground that the proper Court-fee was not paid. The first plaintiff has preferred this petition.

2. The contention of Mr. Rajah Iyer, for the petitioner, is that the order of the Subordinate Judge was without jurisdiction inasmuch as his client

was entitled to ask in a scheme suit for an account against the trustee. No doubt in a scheme suit a decree may be passed against the trustee in

office to account for the income of the property which was under his management. But in this case what the plaintiff has done is to ask for a

specific sum to be paid by the defendant as damages for the loss caused to the suit devasthanam by the defendants' misconduct. Claiming

damages on account of misconduct is not one of the reliefs u/s 92, Civil P.C.

3. If the plaintiffs wanted the defendant to account for the income of the institution of which the said defendant was the manager, he should have

been asked to submit an account relating to his management. Prayer (b) of para. II of the plaint does ask for an account of the management. But

prayer (c) wants the defendant to pay Rs. 53,000 and odd as damages for the losses caused to the devasthanam during his management. As this is

made on a different footing from the ground of accountability of a trustee for the income of the property which was under his management, I think

the order of the learned Subordinate Judge is right and I dismiss the civil revision petition with costs.

4. It is open to the plaintiffs to file another suit after obtaining the consent of the Advocate-General for such reliefs as they deem proper.