

(1938) 03 MAD CK 0003
In the Madras High Court

Ramachandra Madhavados Co.

APPELLANT

Vs

Moovakat Moidunkutti Birankutti and Brothers

RESPONDENT

Date of Decision : 11-03-1938

Acts Referred:

Citation : AIR 1938 Mad 707 : (1938) 47 LW 654 : (1938) 2 MLJ 112

Hon'ble Judges : Abdur Rahman, J

Bench : Division Bench

Judgement

Abdur Rahman, J.—The only question which I have been called upon to decide in this revision relates to the correctness of the order passed

by the District Munsif of Mangalore who, in view of an objection raised on behalf of the defendant, refused to entertain the suit on the ground that

being one for accounts it was barred under Article 31 of Schedule II of the Provincial Small Cause Courts Act.

2. The suit was, as the plaint would show, for a specific sum of money which was alleged to be due to the plaintiff by the defendant in regard to

certain dealings mentioned in paragraph 3 of the plaint. The District Munsif examined the plaintiff and finding that four heads of accounts were

clubbed together in a single katha maintained by the plaintiff firm in its books, out of which two only could be properly recovered on the Small

Cause Side, returned the whole plaint for presentation to the proper Court.

3. Having heard the Counsel for the parties at some length, I am clearly of the opinion that this is not a suit for accounts within the meaning of

Article 31 of Schedule II of the Provincial Small Cause Courts Act and is, as framed, maintainable by the Court of Small Causes. "" A suit for

accounts "" as observed by Sankaran Nair, J., in Konduru Runga Reddi v. Subbiah

Setty (1904) ILR 28 Mad. 394:

is a special form of suit. It does not mean that whenever accounts have to be looked into in order to ascertain the amount due by one party to the

other that the suit should be technically called a suit for accounts.

4. The plaintiff has nowhere in his plaint asked for any accounts to be rendered to him and the allegations in the plaint would ordinarily determine

the nature of the suit. If the plaintiff fails to substantiate his allegations, his suit will have to be dismissed and not returned for presentation to the

proper Court, as ordered by the District Munsif.

5. Had the District Munsif bestowed any attention to the relationship of the parties, he could not have possibly arrived at the conclusion to which

he did. Even according to the allegations of the defendant, he was the principal and the plaintiff a mere agent. How could the agent sue his principal

for accounts? It is only in exceptional cases where his remuneration depends on the extent of dealings which are not known to him or where he

cannot be aware of the extent of the amount due to him unless the accounts of his principal are gone into that a suit by an agent for accounts against

his principal might be competent. But where the exact sum of money which the agent claims from his principal is known to him, the only form in

which a suit can be filed is the one adopted by the plaintiff here.

6. It is rather surprising that although the District Munsif was of the opinion that a suit in regard to two of the items was entertainable by the Court

of Small Causes, he returned the whole of the suit for reasons which have neither logic nor good sense behind them. If he were of the opinion, that

two out of the four items could not be heard by him as a judge of the Court of Small Causes, he should have simply refused to go into them but

should have proceeded to decide the remaining items which could otherwise be determined.

7. In view of my finding, however that the entire suit is cognisable by the Court of Small Causes, this contingency does not arise. I must therefore

reverse the order of the District Munsif and remand the suit for disposal on the merits. The respondent will pay the costs of the petitioner in this

Court. The costs in, the lower Court will abide the result.

8. I understand that the plaint was returned to the petitioners. He may file it in this Court now and will be sent to the District Munsif for disposal as

ordered.