

(1916) 01 MAD CK 0023
In the Madras High Court

Ramaswami Naicker

APPELLANT

Vs

Subbarayulu Naicker

RESPONDENT

Date of Decision : 05-01-1916

Acts Referred:

Citation : 32 Ind. Cas. 567 : (1916) 3 LW 158

Hon'ble Judges : Sadasiva Aiyar, J; Moore, J

Bench : Division Bench

Judgement

1. This is a revision petition against the order of a Sub-Collector exercising jurisdiction in a suit brought under the Estates Land Act. The

preliminary objection is taken that this Court has no jurisdiction to entertain such a revision petition. The preliminary objection is based on the

contention that as Section 205 of the Madras Estates Land Act gives jurisdiction to the District Collector and to the Board of Revenue to revise

non-appealable orders of Revenue Courts passed in proceedings taken under the Act, the Legislature intended that the High Court should not have

any such revisional powers, especially as the exercise of revisional powers. By two independent authorities would, lead to inconvenient conflict of

jurisdictions.

2. Reliance is further placed on the decisions in Velli Periya Mira Ravuthan v. Moidin Padsha Ravuthan 9 M. 332 and Venkatanarasimha Naidu v.

Suranna 17 M.K 298 passed in cases arising under the repealed Rent Recovery Act, VIII of 1865.

3. The above two cases, however, have little application. Those decisions turned on the language of Section 76 of the Rent Recovery Act, VIII of

1865, the words of that section being that ""No judgment of a Collector... shall

be open to revision otherwise than by appeal to the Zillah Court, except where it is an ex parte judgment when it may be revised by the Collector himself. Section 205 of the Estates Land Act gives powers of revision to the Collector and the Board of Revenue, but does not expressly take away from any other Tribunal the revisional powers which it might possess under other Statutes [see *Nilmoni Singh Deo v. Taranath Mukerjee* 9 C. I 295; 4.Sar P.C.J.392; see also *Chaitan Patjosi Mahapatra v. Kunja Behari Patnaik* 11 Ind. Cas. 207 and *Kartik Chandra Ojha v. Gora Chand Mahto* 20 Ind Cas. 420, the result of those cases being that when the Court has appellate jurisdiction in certain matters over another Court, it has also revisional powers u/s 15 of the Charter Act, though some other Tribunals might have also been given such revisional powers under other Acts]. The question is, however, not at all free from doubt. It would be difficult to hold that the Board of Revenue is a Court subordinate to the High Court or subject to the appellate jurisdiction of the High Court (section 115 of the CPC and the Charter Act). The difficulty, therefore, of a conflict between the revisional power of the High Court if it is deemed, to continue to exist notwithstanding Section 205 of the Estates Land Act and the revisional power of the Revenue Board under that section cannot be got over [see also *Ram Dayal v. Ramadhin* (1890) A.W.N. 59.

4. As it is, however, unnecessary to express a final opinion on the question of the powers of this Court for deciding this petition, we do not proceed further with the consideration of this point.

5. On the merits the Sub-Collector no doubt acted at first irregularly in setting aside the ex parte decree without notice to the plaintiff. But he confirmed his order on review after hearing both sides and we must take it that he was satisfied with the truth of the affidavit of the defendant's Vakil. Though the second order does not expressly state that the review petition was dismissed on the merits and that a fresh order on the same terms as the first order was passed, we think that that was what was in substance intended by the Sub-Collector. We, therefore, reject this petition. Under the circumstances, there will be no order as to costs.