

(1937) 04 MAD CK 0020
In the Madras High Court

Ramath Kappalli Kelu Kurup

APPELLANT

Vs

Eacharambath Madathil Subramania Aiyar and Another

RESPONDENT

Date of Decision : 05-04-1937

Acts Referred:

Citation : AIR 1937 Mad 644 : (1937) 45 LW 691 : (1937) 2 MLJ 299

Hon'ble Judges : Horace Owen Compton Beasley, J

Bench : Division Bench

Judgement

Horace Owen Compton Beasley, Kt., C.J.—The point that is constantly being agitated in the High Court is again before me, that is, the

question whether the High Court is bound to interfere in revision when the trial Court had no jurisdiction to try the suit, that is, where the District

Munsiff has wrongly tried an original suit on the Small Cause Side or conversely has tried a Small Cause Suit on the Original Side. This point as to

jurisdiction is constantly taken for the first time in the High Court and I am satisfied from the cases which have been put before me that the majority

opinion in this High Court is that the High Court is not bound to allow the point under such circumstances to be taken or if it is allowed to be taken

the High Court is not bound to interfere in revision if it is satisfied that the lower Court's decree was correct. This latter point put in the following

way I think seems in justice and reason to be capable of only one answer. If the District Munsiff sitting on the wrong side of his Court, passes a

decree which is correct in the opinion of the High Court, to whom a Civil Revision Petition is presented, must the High Court set that decree aside

merely because he has passed it on the wrong side of the Court though the High Court would have upheld it had it been passed on the right side of

the Court? The answer to this question seems to me to be clearly in the negative, namely, that the High Court is not bound under such circumstances to interfere in revision. In the present case, the point was taken in the lower Court and even if the District Munsiff in holding that the suit was one of a Small Cause nature may have been wrong, a point upon which I express no opinion, I see no reason for holding that the decree passed was incorrect or unjust. Under these circumstances this Civil Revision Petition must be dismissed with costs.