

(1936) 04 MAD CK 0034
In the Madras High Court

S. Dharmalinga Nayakar

APPELLANT

Vs

D. Balasubramania Ayyar and Another

RESPONDENT

Date of Decision : 30-04-1936

Acts Referred:

Citation : AIR 1937 Mad 94 : 173 Ind. Cas. 452

Hon'ble Judges : Pandrang Row, J

Bench : Division Bench

Judgement

Pandrang Row, J.—This is an appeal from the order of the City Civil Judge, Madras,, returning the plaint in O.S. No. 566 of 1932 for

presentation to the proper Court The plaintiff sued for four reliefs. Two of them related to the copyright claimed by him in a certain book known as

Gopal New Tamil Reader No. 1,"" and so far as these reliefs were concerned the learned City Civil Judge was of opinion that he had no

jurisdiction to grant these reliefs, and his view is obviously correct. ""Under Section 13, Copyright Act, every suit or other civil proceeding

regarding infringement of copyright shall be instituted and tried in the High Court or the Court of the District Judge. The City Civil Court does-not

come under either of these categories-and it is obvious that the City Civil Court had no jurisdiction. Section 3, City Civil Court Act, which

constituted the Court does not avoid the effect of a specific provision like Section 13, Copyright Act. Section 3, City Civil Court Act, gives general

jurisdiction to the City Civil Court, but the Copyright Act which deals with the special subject matter of copyright clearly restricts jurisdiction to

hear a suit or proceeding relating to copyright to the High Court and the, District Courts. As regards the other two reliefs: one of them is cognizable

by the Presidency Court of Small Causes, being a claim for money due under a contract and therefore not within the jurisdiction of the City Civil Court.

2. The only relief left is a declaration that the plaintiff is the author of the book in question. As regards this relief the learned City Civil Judge says

that the plaintiff even on his own showing is entitled to other consequential reliefs besides a bare-declaration, and that no useful purpose would be

served by granting a relief of this kind to the plaintiff. I entirely agree. After all, the grant of a declaration is a matter of discretion and I think the

learned City Civil Judge exercised a wise discretion in nipping a suit for a declaration of this kind in the bud instead of wasting his own time and

that of the defendants in trying a suit for a mere declaration like this. The appeal is really hopeless and I would even say frivolous. The plaintiff-

appellant was definitely told to present his plaint to the proper Court. Instead of doing that he has preferred a baseless and hopeless appeal. The

appeal is dismissed with costs.