

(1953) 03 MAD CK 0006

In the Madras High Court

Case No : C.M.P. of 1953 in S.R. No. 11015 of 1953

Sabella Sahaba Reddy and Others

APPELLANT

Vs

Karri Venkata Reddy and Others

RESPONDENT

Date of Decision : 17-03-1953

Acts Referred:

Constitution of India, 1950 — Article 227(1)

Citation : AIR 1953 Mad 832 : (1953) 66 LW 642 : (1953) 2 MLJ 279

Hon'ble Judges : Rajamannar, C.J.;Venkatarama Aiyar, J

Bench : Division Bench

Advocate : O. Chinnappa Reddy, for the Appellant;

Judgement

Rajamannar, C.J.—The appellant in C. M. A. No. 670 of 1949 on the file of this court seeks to file an appeal against the judgment of Mack

J. dated 13-2-1953 dismissing his appeal. The matter comes up before us on an objection by the Office that the appeal is not maintainable.

2. It is obvious that an appeal is not maintainable under Clause 15, Letters Patent. Learned Counsel appearing before us has not sought to raise

any contention on this clause. What he contended was that an appeal would lie under Article 227(1) of the Constitution, which runs as follows:

Every High Court shall have superintendence over all courts and tribunals throughout the territories in relation to which it exercises jurisdiction.

This provision is a substantial re-enactment of Section 107 of the Government of India Act, 1915 and Section 15 of the earlier Charter Act. So far

as we are aware, this provision has never been understood to confer a right on the High Court as such to interfere with judicial orders and

judgments made and passed by individual Judges or Division Benches of the High Court. It cannot be said that a Judge of the High Court disposing

of a Civil Miscellaneous Appeal is a court within the meaning of Article 227(1) of the Constitution and that the High Court has power of

superintendence over him so that it could interfere with his judgments. In our opinion the power of the High Court under Article 227(1) is confined

to subordinate courts & judicial & quasi-judicial tribunals which are also subordinate to it. A Judge of the High Court is not as such subordinate to

the High Court.

3. Learned counsel relied upon the observations of the Privy Council in -- "Hurrish Chunder v. Kalisundari Debi", 9 Cal 482 (A), where their

Lordships did not accept the view of Garth C. J. in -- "Kally Soondary Dabia v. Hurrish Chunder, 6 Cal 594 (B). We do not think that these

observations help the appellants in any way. Those observations must be read in the light of the context and obviously have reference to the view

of Garth C. J. as to the nature of the order of Pontifex J. in that case, namely, that it was merely ministerial and it could not be said that the learned

Judge was usurping any jurisdiction in passing the order.

4. The proposed appeal is incompetent. The memorandum, of appeal will therefore be rejected.