

(1893) 10 MAD CK 0010
In the Madras High Court

Subba Row

APPELLANT

Vs

Palaniandi Pillai

RESPONDENT

Date of Decision : 12-10-1893

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 19

Citation : (1894) ILR (Mad) 167 : (1893) 4 MLJ 71

Judgement

1. The preliminary objection is taken that no second appeal lies. The language of Section 26 appears to us to support the contention. The intention

was, we think, to confer on the District Court the same appellate jurisdiction over an order of an inferior court as is conferred by Section 19 on the

High Court over the order of a District Court.

2. There is "no provision in the Act for a second appeal in any case. Both Section 19 and Section 26 declare that the orders of District Courts shall be final.

3. The material words in Section 19, Clause 3, are "subject to the provisions of Sub-section 1 and of Chapters XLVI and XLVII of the CPC as

applied by Section 647 of that Code an order of the District Court under this section shall be final." Section 269, Clause 3, is to the same effect,

but the words "subject to the other provisions of this Act" are omitted.

4. It is contended that the word "final" is intended to preclude any other suit. This may be. But we are of opinion that it also precludes a further appeal except when such is expressly allowed.

5. The use of the words "subject to the other provisions of this Act" in Section 19 and their omission in Section 26 is significant.

6. We are of opinion that the preliminary objection must prevail.

7. This appeal is therefore dismissed with costs.