

(1915) 08 MAD CK 0044
In the Madras High Court

Thoppukattu Ramaya Gounden and Another, and Karuppa
Mooppan

APPELLANT

Vs

R. Sadagopachariar

RESPONDENT

Date of Decision : 26-08-1915

Acts Referred:

Citation : AIR 1916 Mad 1154 : 32 Ind. Cas. 759

Hon'ble Judges : Seshagiri Aiyar, J

Bench : Single Bench

Judgement

Seshagiri Aiyar, J.—In these cases suits for declaration were filed in the District Munsif's Court. Among the reliefs prayed for, the questions regarding the right of the tenant to the trees on their holding whether the trees can be cut by them, were asked to be decided. The District Munsif was invited to give and did give his finding upon the matters in controversy between the parties. Ultimately he held that the suits ought to be instituted in the Revenue Court and that he had no jurisdiction; he, therefore, directed the plaintiff to present his complaints in the proper Court. Against those orders appeals were preferred to the District Judge. Before the District Judge the parties agreed that, as there was a prayer which asked for a declaration of rights, the District Munsif had jurisdiction to dispose of the suits. In this view the only order that should have been passed was to annul the orders of the District Munsif directing the return of the complaints for presentation to the proper Court. The parties should have been asked to take such steps as they chose to adopt or to take such proceedings as they thought proper in the Court of first instance. Instead of that, the learned District Judge has directed the District Munsif to restore the suits to his file and to dispose of them according to law. Apparently the District Judge considered that he was remanding the appeals for disposal to the lower Court. That portion of the District Judge's judgment in which he directs the District Munsif to restore the suits to his file must be deleted. It must be left to the District Munsif to decide whether he should re-hear the cases, or whether, having regard to the agreement between the parties, he should give his findings anew upon all the

issues or whether he should now proceed to give judgment on the basis of the findings already arrived at in the cases. It is to be regretted that in these cases a great deal of time should have been taken up in dealing with matters which ultimately may prove to have no bearing upon the judgment to be pronounced. The petitions are dismissed subject to the modification suggested.

2. Under these circumstances I make no order as to costs in this Court.