
(1891) 02 MAD CK 0012
In the Madras High Court

Vanangamudi

APPELLANT

Vs

Ramasami

RESPONDENT

Date of Decision : 12-02-1891

Acts Referred:

Citation : (1891) ILR (Mad) 406

Hon'ble Judges : Parker, J;Muttusami Ayyar, J

Bench : Division Bench

Judgement

1. It is contended for the respondent that the order appealed against is not a final order and that no appeal lies u/s 15 of the Letters Patent. We do

not consider that this contention can be supported. The effect to be given to the word "" Judgment"" in Section 15 was considered by Mr. Justice

BITTLESTON in Desouza v. Coles 3 M.H.C.R. 386 and it was held that the word has the general meaning of any decision or determination,

whether final or preliminary, affecting the rights or the interest of any suitor or applicant. It was also pointed out that that meaning is suggested by

the language of the Charter in Clauses 15, 39 and 40. Though the order now before us called for a report from the Subordinate Judge, yet it

contained the preliminary adjudication that the appellant was not entitled to recover any rent for the village of Koonur, and that the decree of the

Subordinate Judge must be reversed so far as it related to that village.

2. On the merits, we are unable to support the order of the learned Judge. We find on the record a decision of the Deputy Collector in Summary

Suit No. 34 of 1888, settling the terms of the patta to which the respondent was entitled for fasli 1293 under Act VIII of 1865. This being so, the

Subordinate Judge has jurisdiction to decree the claim for rent, and, even

assuming that the decree in Original Suit No. 331 declared that the appellant was entitled only to a money rent in respect of two items of land and not to varum, and that the Subordinate Judge had failed to give due effect to it, the error, if any, is not one by reason of which he assumed a jurisdiction which he did not possess. We are of opinion that it was not competent to the learned Judge to revise the decree of the Subordinate Judge u/s 622 of the Code of Civil Procedure.

3. We set aside the order appealed against, and restore the decree of the Subordinate Judge. The respondent will pay the appellant's costs in this

Court and of the proceedings in the Court below u/s 622.