

(1952) 04 MAD CK 0031

In the Madras High Court

Case No : Civil Revision No. 1370 of 1950

Veerni Soorayya

APPELLANT

Vs

Veerni Mallayya and Others

RESPONDENT

Date of Decision : 22-04-1952

Acts Referred:

Citation : AIR 1953 Mad 164 : (1952) 65 LW 914 : (1952) 2 MLJ 452

Hon'ble Judges : Mack, J

Bench : Single Bench

Advocate : C. Rama Rao, for the Appellant;

Final Decision : Allowed

Judgement

Mack, J.—Petitioner and defendants were made jointly and severally liable on a decree for costs amounting to Rs. 442-8-0. Petitioner paid

the whole amount and filed a small cause suit to recover Rs. 86-11-0 from defendants 1, 2 and 3 and from defendants 4 to 7. The learned Small

Cause Judge erroneously held that this suit was not cognizable by a Small Cause Court and returned it for presentation to the proper court. He

followed a Patna decision -- "Mt. Sarror Fatima v. Chaudhury Seikh Mohammad Safiuddin", AIR 1941 Patna 49, which is not in point. It was

there held that where a suit was brought by one co-sharer, who had paid land revenue to Government to recover contribution from the other co-

sharers it could not be tried by a Small Cause Court under Article 41 of Schedule II of the Small Cause Courts Act. In a suit of that kind, there

were several avenues for contest open which took it out of the category of a small cause suit. The present suit is clearly not covered by Article 41

where there has been a decree already passed making the petitioner and

defendants jointly liable. It was well-settled long ago that this type of suit for contribution is cognizable by a Small Cause Court. See -- "Ramaswami Pantulu v. Narayanamurthi Pantulu", 14 MLJ 480 and also, if it is necessary to go outside our State, -- "Bhairon v. Ram Baran", 28 All 292. The view taken by the lower court is erroneous. Its order is set aside. The plaint will be received and tried as expeditiously as possible as a small cause suit.

2. The petition is allowed with costs.