

(1897) 11 MAD CK 0001
In the Madras High Court

Venkatarayadu and Others

APPELLANT

Vs

Rangayya Appa Rau Ors.

RESPONDENT

Date of Decision : 30-11-1897

Acts Referred:

Court Fees Act, 1870 — Section 28

Citation : (1898) ILR (Mad) 152

Hon'ble Judges : Subramania Ayyar, J;Shephard, J

Bench : Division Bench

Judgement

1. Objection is taken to the maintenance of this appeal as being made against an order in respect of which no appeal is allowed by the Code of

Civil Procedure. The appeal could only be justified on the ground that the order of the District Judge amounted to a decree within the meaning of

the code. But as the District Judge had no appeal before him, it is impossible to say that he passed a decree. It must be assumed, and indeed it is

not disputed, that the Judge was right in determining the amount of the fee chargeable, and it follows that the memorandum of appeal not being

properly stamped, was of no validity whatever (Section 28, Court Fees Act). Consequently there having been no appeal and no appellate decree,

there can be no second appeal

2. The appeal is dismissed with costs.