

that it recited a compromise between the plaintiff's father and the father of the first, second, third and fourth defendants. This recital the Munsif had not noticed when he first heard the case, and when he did see it, it tended to explain further how it came that A was executed about the time of the dispute.

It appears to us that within the provision "for good and sufficient reason" in section 376, and within the provisions "or otherwise necessary for the ends of justice" in section 378, the Munsif was not only justified, but was bound to admit the review, feeling, as he did, that it was necessary to ascertain whether his first decision was correct or not.

Appellant to have his costs of the Lower Appellate Court and this Court against the defendants.

Suit remanded.

1878,
July 26.

MÁHADEVA
RÁYAR
v.
SAPPANI.

APPELLATE CIVIL.

Before Mr. Justice Kernan and Mr. Justice Muttusámi Áyyar.

SURYAPRASAKA RÁU (PETITIONER) v. VAISYA SANNYÁSI-
RÁZÚ (COUNTER PETITIONER) (1).

1878.
September 16.

*Decree—Execution—Bond—Registration Act XX of 1866—Act X of 1877,
Sections 588 and 622.*

An application was made to a District Munsif, on the 16th July 1877, to issue execution on a decree dated 6th November 1869, obtained on a bond registered under Section 53 of the Registration Act of 1866. He made an order refusing execution, the decree being one passed not in a regular suit, but in a summary suit, and governed by the period of limitation prescribed by Art. 166, Sch. II, Act IX of 1871. On appeal the Subordinate Judge reversed the order of the Munsif, holding that Art. 167, Sch. II of Act IX of 1871 applied.

On application to the High Court, *Held* that as Section 588 of Act X of 1877 provided that orders passed in appeal from orders under Section 244 should be final, no second appeal lay. *Held* also, that under Section 622 of Act X of 1877 the High Court could not interfere, as the Subordinate Judge had jurisdiction to hear the appeal.

THIS was a petition under Section 622 of the Civil Procedure Code (Act X of 1877), against the order of the Subordinate Judge

(1) Civil Miscellaneous Petition No. 109 of 1878, presented under Section 622 of Act X of 1877, against the order of C. Rámachandra Áyyar, Subordinate Judge of Chicacole, dated the 3rd December 1877, reversing the order of the Court of the District Munsif of Chicacole, dated 17th August 1877.

1878.
September 16.

SURYAPRA-
SAKA RÁU
v.
VAISYA SAN-
NYÁSIRÁZU.

of Chicacole, passed on appeal from the order of the District Munsif of Chicacole in Special Registration Suit No. 25 of 1869.

Arunachella Sástri for the Petitioner.

Anantha Charry and *Súndram Sástri* for the Counter-Petitioner.

The facts sufficiently appear in the following judgments:—

KERNAN, J.—The District Munsif of Chicacole was applied to, on the 16th July 1877, to issue execution on a decree in Suit No. 25, dated 6th November 1869, obtained on a bond registered under Section 53, Registration Act of 1866. He, on the 17th of August 1877, made an order refusing execution, the decree being one passed not in a regular suit, but in a summary suit, Article 166, Act IX of 1871.

On appeal the Sub-Judge, by order dated the 3rd December 1877, reversed the order of the Munsif, holding that Article 167 of the Limitation Act applied.

The application to this Court was made by way of second appeal. Section 588, Act X of 1877, provides that orders passed on appeals under that section shall be final. Although we may have little doubt that the Sub-Judge made an erroneous order in point of law, we cannot interfere, as the decision of the Appellate Court from orders under Section 244 is final. The case was, however, entered in the list for hearing under Section 622. But that section does not enable us to make any rule in the matter, as the Sub-Judge had jurisdiction to hear the appeal and his decision is final. No doubt he had not jurisdiction to make an illegal order, but we must assume that he made the order under the belief that he was acting upon the true legal construction of Article 166. He committed an error of judgment in a matter in which he had jurisdiction to decide, but the error in judgment, though it entails an obligation on the defendant to pay a debt barred by the statute, cannot authorize us to interfere. If we could interfere on such ground, the provision for finality of appeal in Section 588 should be nugatory. The amount involved in this case is not large, about Rupees 500, though perhaps important to the parties, but many cases of like kind will most probably occur where much larger sums may be (under similar unappealable decisions) the subject of illegal orders. Whether such interests of suitors should be left to the uncontrol-
lable judgment of the inferior Appellate Courts or be subject on

questions* of law to second appeal may be a question for the Legislature.

We can only deal with the law as we find it.

MUTTUSÁMI ÁYYAR, J.—I am also of the same opinion. No second appeal lies in this case. Nor does it fall under Section 622, which applies only where the subject-matter of the application is one over which the Court has no jurisdiction.

1878.
September 16.

SURYAPRA-
SARA RÁU
v.
VAISYA SAN-
NYÁSIRÁU.

Petition rejected.

APPELLATE CIVIL.

Before Sir W. Morgan, C. J., and Mr. Justice Forbes.

BYRADDI SUBBAREDDI, PLAINTIFF v. DASAPPA RÁU
AND THREE OTHERS, DEFENDANTS (1).

1878.
October 2.

Application for Execution of Decree—Act VIII of 1859—Act X of 1877, Sec. 230.

An application, under Act VIII of 1859, for execution of a decree was rejected by the District Judge on the ground that the judgment-creditor had withdrawn from the former application. This order was reversed on appeal and the case was sent back for disposal on its merits. The Judge then held that Act X of 1877 which had just come into force, applied, and, on the ground that the decree-holder had failed to get execution upon his former application, dismissed the Petition. The Judge referred the case to the High Court upon the question whether he was, under the circumstances, at liberty to grant the application. *Held* that he was. The application should have been dealt with under the law which was in force at the time execution was sought.

The effect of the provisions of Section 230 of Act X of 1877, considered.

THIS case was referred, under Section 617 of Act X of 1877, by the District Judge of Cuddapah in the matter of a Petition for execution of the decree in a suit on the file of that Court.

Neither party appeared. The Court delivered the following

JUDGMENT:—An application, under Act VIII of 1859, for execution of a decree, was rejected by J. H. Nelson, District Judge of Cuddapah, on the ground that the judgment-creditor had withdrawn from the former application. This order was reversed in appeal and the case was sent back for disposal on its merits. The District Judge then held that Act X of 1877, which had just come into force, applied, and on the ground that the decree-holder

(1) Referred Case No. 1 of 1877, stated under Section 617, Act X of 1877, by J. H. Nelson, District Judge of Cuddapah.