

properly be exercised by the Subordinate Court. We, therefore, resolve to quash the proceedings of the Subordinate Court and to refer the petition to the District Judge for disposal.

PONNUSAMI
PILLAI
v.
PACHAI.

No costs will be allowed in this Court.

APPELLATE CIVIL.

Before Mr. Justice Kernan and Mr. Justice Forbes.

KANDASA'MI PILLAI (SECOND DEFENDANT), APPELLANT, v. MOIDIN SAIB (PLAINTIFF), RESPONDENT.*

1880.
December 15.

Foreign Judgment, suit on—Decree enforced sub-modo.

The plaintiff obtained a judgment in a French Court against the father (now deceased) of the defendant.

Plaintiff sued defendant on that judgment as representative of his father in the French Court. The defendant pleaded that the bond on which that judgment was obtained was not genuine. Judgment was given for the plaintiff in the French Court with costs. The plaintiff brought the present suit on that judgment. The Lower Appellate Court decreed for the plaintiff against the defendant, personally, for the full amount of the decree in the French Court and interest.

Held that the defendant was bound by the judgment in the French Court against him as representative of his father and personally bound to pay all costs awarded against him: but that, in giving effect to the French judgment, it was to be executed according to the rules of the Civil Procedure Code, which, in the absence of proof of assets received by a representative of a deceased, only gives a decree against the defendant as representative to be levied from the assets of the deceased.

THIS suit was brought upon a judgment of the French Appellate Court at Pondicherry, delivered on the 20th November 1875 in favor of the plaintiff.

The defendants denied that they were bound by the foreign judgment: the Lower Appellate Court having held that they were so bound, the defendants preferred a second appeal.

A. Rámachandra Áyyar for the Appellant.

T. Ráma Ráu for the Respondent.

* Second Appeal No. 210 of 1880 against the decree of R. Vassudéva Ráu, Subordinate Judge of Negapatam, dated 8th December 1879, reversing the decree of the Court of the District Munsif of Tranquebar, dated 24th November 1877.

KANDASAMI
PILLAI
v.
MOUDIN SAIB.

The facts are sufficiently set forth in the Judgment of the Court (KEENAN and FORBES, JJ.).

JUDGMENT.—The plaintiff obtained a judgment in a French Court against the father, now deceased, of the defendant.

The plaintiff sued the defendant on that judgment as representative of his father in the French Court.

The defendant pleaded that the bond on which that judgment was obtained was not genuine. Judgment was given for the plaintiff in the French Court with costs. The plaintiff sues on that judgment.

There was a decree in the Lower Appellate Court for the plaintiff against the defendant, personally, for the full amount of the decree in the French Court and interest, amounting in all to Rs. 1,775-2-9.

The defendant appeals on the ground that the judgment in the French Court does not bind him; at all events that, as he did not execute the bond, and as there was no allegation in the French Court or in this suit that he got assets of his father sufficient to pay the bond, there should not be a personal decree against him, but only a decree against him as representative of his father to be levied from the assets of the deceased. We hold that the defendant is bound by the judgment in the French Court against him as representative of his father, and that he is personally bound to pay the costs awarded against him in that suit; and we also hold that the decree of the Lower Appellate Court is right in making a decree against the defendant personally for those costs, and also for all the costs of this suit, as he contested plaintiff's right throughout. But we are of opinion that in giving effect to the French judgment, it is to be executed according to the rules and procedure of this Court, which, in the absence of proof of assets received by a representative of a deceased, only gives a decree against the defendant as representative to be levied from the assets of the deceased. We direct that a decree be made accordingly. Each party to abide his own costs of this appeal.
