

Muthaya Pillai and others, under s. 20 of the Cattle Trespass Act, of illegal seizure of cattle. KOTTALANÁDA  
v.  
MUTHAYYA.

The Magistrate having acquitted the defendants, directed the complainant to pay them compensation as for a frivolous complaint.

Mr. Wedderburn for the petitioner referred to *Pitchi v. Ankappa*.(1)

*Subramanya Ayyar* for respondents.

The Court (Muttusámi Ayyar and Parker, JJ.) delivered the following

JUDGMENT:—We are of opinion that the illegal seizure of cattle is not an offence within the meaning of the Criminal Procedure Code, and therefore set aside the order awarding compensation, and direct the refund of the money.

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## APPELLATE CIVIL.

*Before Sir Arthur J. H. Collins, Kt., Chief Justice, and  
Mr. Justice Parker.*

RÁMÁ (PLAINTIFF), PETITIONER,

and

KUNJI AND ANOTHER (DEFENDANTS), RESPONDENTS.\*

1886.  
April 2, 6.

*Legal Practitioners' Act, ss. 27, 28, 30—Suit by Pleader to recover fee from client—  
Contract Act, s. 70—Civil Procedure Code, s. 622.*

The Legal Practitioners' Act does not debar a pleader from recovering a fee from his client when no contract in writing is made.

A Small Cause Court having dismissed a suit brought by a pleader to recover from his client a fee claimed for the conduct of a suit, on the ground, that such a suit would not lie, because it was based on an oral contract and such contract could not be enforced by reason of the provisions of the Legal Practitioners' Act, the High Court under s. 622 of the Code of Civil Procedure reversed the decree of the Small Cause Court.

APPLICATION under s. 622 of the Code of Civil Procedure to set aside the decree of V. P. DeRozario, Subordinate Judge of South Malabar at Palgat, in Small Cause Suit No. 596 of 1885.

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कुंजी.

The facts are set out in the judgment of the High Court (Collins, C.J., and Parker, J.)

*Gopalan Nayar* for petitioner.

Respondents did not appear.

JUDGMENT.—The plaintiff sues to recover from his clients Rs. 82-8-5, balance of the “regular fees” as remuneration for his services as defendants’ vakil in a certain suit. There was no agreement in writing made between the parties. It is however stated in the judgment that defendants’ agent promised plaintiff the “regular fee,” i.e., the fee prescribed by the High Court as payable to one party by the adverse party.

The Subordinate Judge dismissed the suit, holding the agreement invalid under s. 28 of the Legal Practitioners’ Act, not being made in writing or filed in Court.

It is urged upon us that the Subordinate Judge declined a jurisdiction vested in him by law since the Legal Practitioners’ Act does not prevent the practitioner recovering a fee from his client when no agreement in writing is made. The plaintiff, it is said, bases his suit upon s. 70 of the Contract Act, as it was never intended that the service should be rendered gratuitously.

The plaint does not show that the cause of action is based on an oral agreement to pay the “regular fees.” Nothing is said about any agreement at all; the suit as framed is for work and labour done, and may be brought under s. 70 of the Contract Act. It may be however that, at the hearing, the plaintiff set up an oral agreement to pay the regular fees.

The fees fixed by the High Court under s. 27 of the Legal Practitioners’ Act relate only to fees payable by one party in respect of the fees of his adversary’s advocate and not to the fees payable between a pleader and his own client; ss. 28 and 30 would appear to refer to agreements to pay more than such fees.

The Subordinate Judge has jurisdiction to hear the suit and must determine on the evidence whether the amount claimed is fair and reasonable.

We set aside the decree and direct the Subordinate Judge to try the cause on its merits. The respondent must pay the costs of this proceeding.

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