of plaintiff's jenm panayam and did not consent to it, and the District Judge adopts this finding. There was, therefore, no valid opportunity for making a further advance, and the suit was rightly dismissed. *Cheria Krishnan* v. *Vishnu.* (1) *Vasudevan* v. *Keshavan* (2) is not in conflict with this view, since in that case the veppu holder and his karnavan had the chance of purchasing at the price offered by the highest bidder at an auction.

The issue referred in *K. T. P. Kunhali* v. *V. V. Kinathe* (3) is not necessary here since the Courts have found that defendant No. 2 had no notice of the panayam.

The second appeal fails and is dismissed with costs.

APPELLATE CRIMINAL.

Before Mr. Justice Muttusámi Ayyar and Mr. Justice Parker.

QUEEN-EMPRESS

against

KETHIGADU.*

1886. April 16, 28.

Madras Forest Act, ss. 2, 43, Rules 10, 13, 23—Logs permanently fastened to a building cease to be timber.

The accused were convicted of removing 'timber' vested in the Forest Department, and the convicting Magistrate ordered it to be confiscated:

Held, that having been already permanently fastened to a building it had ceased to be timber within the meaning of s. 2 of the Forest Act, and the order for confiscation was illegal.

THIS was a case referred for the orders of the High Court by C. A. Bird, District Magistrate of Cuddapah.

In case No. 190 of 1885, the Second-class Magistrate of Budvel convicted Kethigadu and two others of an offence punishable under s. 26 of the Madras Forest Act, 1882, (viz., breach of Rule 12 of the Forest Rules passed by the Governor in Council) in cutting "reserved" trees without license and removing the timber.

The Magistrate found that the accused had cut sandal-wood and other logs and built huts therewith.

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(1) I.L.R., 5 Mad., 198. (2) I.L.R., 7 Mad., 309. (3) I.L.R., 3 Mad., 74.

* Criminal Revision Case 680 of 1885.

QUEEN-EMPRESS v. KETHIGADU.

Under s. 43 of Act, the Magistrate confiscated the "materials" and directed the Forest Ranger to take possession of them.

The Deputy Magistrate, at whose instance the case was referred, was of opinion that as the timber had been converted into huts and was no longer movable property, the order under s. 43 was bad in law.

Counsel were not instructed.

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

JUDGMENT:—We are of opinion that logs of wood, when they have become part of a house and permanently fastened to a building attached to the earth, have ceased to be timber within the meaning of s. 2 of the Forest Act, and are therefore not liable to attachment under s. 43 of that Act.

The order for confiscation must be set aside.

APPELLATE CRIMINAL.

Before Mr. Justice Muttusámi Ayyar and Mr. Justice Parker.

1886, April 16.

KOTTALANÁDA, PETITIONER,

against

MUTHAYA AND OTHERS, RESPONDENTS.*

Cattle Trespass Act, s. 20—Criminal Procedure Code, s. 4 (a), s. 250—Illegal seizure of cattle under the Cattle Trespass Act, not an offence within the meaning of the Code of Criminal Procedure.

In a case instituted upon complaint made under s. 20 of the Cattle Trespass Act, the Magistrate acquitted the accused, and being of opinion that the complaint was vexatious, directed the complainant to pay compensation to the accused as under s. 250 of the Code of Criminal Procedure:

Held, that the act complained of was not an offence within the meaning of the Code of Criminal Procedure, and that the order awarding compensation was illegal.

APPLICATION under ss. 435, 439 of the Code of Criminal Procedure to quash an order of the Second-class Magistrate of Tenkasi awarding compensation under s. 250 of the Code of Criminal Procedure to the defendant in case No. 70 of 1885. In that case Kottalanáda Pillai preferred a complaint against

* Criminal Revision Case 21 of 1886.