

decree of this Court, but one approved by the High Court on second appeal; and this Court has no power, in my opinion, to alter such decree; and more so, as the petitioner failed to have it set right, though one of his appeal grounds expressly referred to this relief. Petition is dismissed.”

SUNDARA
v.
SUBBANNA.

The ground upon which this petition was based was that the Múnsif had failed to exercise jurisdiction in refusing to amend his decree by bringing it into conformity with the judgment.

Parthasaradi Ayyangár for petitioner.

Respondent did not appear.

JUDGMENT:—We do not agree with the District Múnsif that his jurisdiction to amend the decree under s. 206 is affected by that decree being approved on second appeal by the High Court. Section 206, Civil Procedure Code, enacts that the decree must agree with the judgment, and, if there is an error, the Court shall amend the decree so as to bring it into conformity with the judgment. We set aside with the order of the District Múnsif and direct him to pass fresh orders.

APPELLATE CIVIL.

Before Mr. Justice Kernan and Mr. Justice Muttusámi Ayyar.

AMMA (DEFENDANT NO. 1), APPELLANT,

and

KUNHUNNI (PLAINTIFF), RESPONDENT.*

1886.
March 17.

Civil Procedure Code, ss. 562, 565, 566—Illegal order of remand.

A District Múnsif having taken all the evidence offered on the issues in a suit, disposed of the suit upon his finding on one of the issues without deciding the rest.

On appeal the District Judge reversed the decree and remanded the suit for the trial of the issues left untried :

Held that under s. 562 of the Code of Civil Procedure, the order of remand was illegal.

APPEAL against an order of H. J. Stokes, Acting District Judge of South Malabar, in appeal No. 1 of 1885, remanding suit No. 68 of 1884 on the file of the District Múnsif of Calicut for trial of certain issues left untried by the said Court.

* Appeal against Order 116 of 1885.

AMMA
v.
KUNHUNNI.

The facts appear from the judgment of the Court (Kernan and Muttusámi Ayyar, JJ.)

Sankara Menon for appellant.

Sankara Náyar for respondent.

JUDGMENT:—The Court of first instance tried all the issues, that is, the Múnsif took evidence on them all. But the Múnsif thought that his finding on the third issue would render unnecessary any finding on the other issues.

On appeal the District Judge reversed the finding on the third issue and ordered the case to be remanded for trial by the Court of first instance of the issues untried.

This order was supposed to be justified by s. 562 of the Code of Civil Procedure, but it was not legally justifiable under that section. That section provides that if a Lower Court has disposed of the suit on a preliminary point so as to exclude evidence of fact which appears to the Appellate Court essential to the determination of the case, and if the decision on that preliminary point is reversed on appeal, then the Appellate Court may *remand*. But in this case no evidence appears to have been excluded, as evidence was given on the issue which the Judge has directed to be tried. The Judge should have acted either on s. 565 or 566.

We set aside the order of the District Judge and direct him to restore the case to his file and proceed according to law.

Costs of this appeal to be provided for in the decree.

APPELLATE CRIMINAL.

Before Mr. Justice Kernan and Mr. Justice Parker.

SCOTT against RICKETTS.*

1886.
April 9.

Criminal Procedure Code, s. 526—District Magistrate and Civil and Sessions Judge (quá Magistrate) of Bangalore subordinate to High Court.

The District Magistrate and the Civil and Sessions Judge of the civil and military station at Bangalore are Magistrates subordinate to the High Court at Madras within the meaning of s. 506 of the Code of Criminal Procedure.

In petition No. 19 of 1886 James Scott prayed that the High Court would withdraw case No. 97 of 1886 on the file of the District

* Criminal Miscellaneous Petitions 19 and 23 of 1886.