

## APPELLATE CIVIL.

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

SUNDARA (DEFENDANT NO. 1) PETITIONER

and

SUBBANNA (PLAINTIFF), RESPONDENT.\*

1886.  
March 12.

*Civil Procedure Code, s. 206—Jurisdiction of Court to amend its decree after appeal.*

Under s. 206 of the Code of Civil Procedure a Court has power to amend its decree by bringing it into conformity with the judgment after the said decree has been confirmed on appeal.

THIS was a petition under s. 622 of the Code of Civil Procedure against an order of T. Rangácháryar, District Múnsif of Tiruvarúr in the Tanjore district.

The petitioner, Sundara Ayyan, defendant No. 1 in suit No. 39 of 1883, sought to have the decree in the suit amended under s. 206 of the Code of Civil Procedure. The decree declared that the person of defendant No. 1 and his property generally should be liable for the sum decreed; whereas the prayer in the plaint was that certain property hypothecated by him to secure payment of the sum claimed should be held liable; and in the judgment it was decided that the property hypothecated should be sold for the amount of the decree. Upon this petition the Múnsif delivered the following judgment:—

“The decree in question was appealed against and reversed by the District Court of North Tanjore. The matter was taken up before the High Court in second appeal. The High Court reversing the decree of the Lower Appellate Court, confirmed the decree of this Court. The ground stated in the petition for correcting the decree was a ground of appeal from the decree of this Court. The matter has gone up for consideration before the higher Courts, and for some reason or other the relief expressly prayed for by the petitioner was *not* granted. I consider that s. 206 applies only to final decrees and such decrees as have not ceased to be final by an appeal having been preferred against them. The decree between the parties as it now exists is not a mere

\* Civil Revision Petition 318 of 1885.

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.

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## 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.

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\* Appeal against Order 116 of 1885.