

APPELLATE CIVIL.

Before Mr. Justice Muttusami Ayyar and Mr. Justice Parker.

MIRKHAN (PLAINTIFF),

v.

KADARSA (DEFENDANT).*

1889.
November 8.

Civil Procedure Code, s. 15—Act I of 1889, s. 13—Jurisdiction of Small Cause Courts to hear suits cognizable by Village Munsif.

The term "Court of lowest grade" in Civil Procedure Code, s. 15, refers only to Courts to which the Civil Procedure Code is applicable, and consequently Small Cause Courts have concurrent jurisdiction with Courts of Village Munsifs to hear suits which are cognizable by the latter.

CASE referred under section 617 of the Code of Civil Procedure for the decision of the High Court by V. Malhari Rau, District Munsif of Coimbatore, as follows:—

"This is a suit for the recovery of Rs. 18 for arrears of rent from 13th January 1887 to 11th January 1889 under a contract of rent, dated in January 1883, under which defendant promised to pay a monthly rent of As. 12 for a house in his occupation.

"The suit is one which is cognizable by a Village Court under Madras Act I of 1889, s. 13 of which enacts:—'The following are the suits which shall be cognizable by Village Courts, namely, claims for money due on contract, or for personal property, or for the value of such property, when the debt or demand does not exceed in amount or value the sum of Rs. 20, whether on balance of account or otherwise.'

"The expression in the present Act I of 1889, Madras, s. 13, is:—'The following are the suits which shall be cognizable.' This is a change from the old regulation, which simply empowered Village Munsifs to try such suits as might be preferred to them. It is therefore no longer optional with parties who have to institute the suits coming under the description given in that section in the Village Courts and not in a Small Cause Court.

"It may be that section 15 of the Civil Procedure Code does

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not apply to a Village Court. But that circumstance does not affect a Court to which the section applies, and which has therefore to be guided by its provisions. And the section does not necessarily become applicable to the Village Courts, because parties have to resort to them.

“The Small Cause Courts Act, IX of 1887, ss. 16 and 32, do not affect the question, as the jurisdiction of Village Munsifs in Madras is expressly saved under section 3.”

Counsel were not instructed.

JUDGMENT :—There is no doubt that the Village Munsif's Court has jurisdiction to hear the suit under section 13, Madras Act I of 1889, but the question is whether the District Munsif is precluded from hearing it by the provisions of section 15 of the Civil Procedure Code.

Under the old law the Small Cause Court had concurrent jurisdiction (*Parasoorama Pillay v. Ramasarmy*(1)), and we have to consider whether the new Act has in any way changed this state of affairs.

The Civil Procedure Code has no application to the Courts of Village Munsifs at all, see section 6, and there is nothing in Madras Act I of 1889 to extend its provisions to Village Munsifs' Courts. Sections 2-4 make it clear that the Courts as now re-constituted are the same Courts that formerly existed under Madras Regulation IV of 1816, and section 4 makes it clear that no Civil Court should either acquire or lose jurisdiction unless any village or area was withdrawn from the operation of the Act.

We are therefore of opinion that the concurrent jurisdiction remains unchanged, and that the term “Court of the lowest grade” in section 15, Civil Procedure Code, refers only to Courts to which the Code of Civil Procedure is applicable.

(1) 5 M.H.C.R., 45.