

APPELLATE CIVIL.

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

ALAGIRISÁMI AND OTHERS (PETITIONERS), APPELLANTS,
and

RAMANÁTHAN AND OTHERS (RESPONDENTS), RESPONDENTS.*

1886,
Sept. 17.

Civil Procedure Code, s. 292.—Pleaders not officers of the Court within the meaning of that section.

Pleaders of parties to a suit are not debarred by s. 292 of the Code of Civil Procedure from purchasing property sold in execution of the decree.

APPEAL against an order of A. J. Mangalam Pillai, Subordinate Judge of Madura (West), rejecting an application to set aside a sale of land in execution of the decree in suit 36 of 1878.

Alagirisámi Náyak and two others, defendants 2, 3 and 5, presented petitions to the Court to set aside the sale on the ground, *inter alia*, that, the sale of some of the land was illegal, inasmuch as it was purchased by the vakíl of the plaintiff and that such purchase was opposed to s. 136 of the Transfer of Property Act.

Bhášhyam Ayyangár and *Kaliánarámayyar* for appellants.

Rámá Ráu and *Subramanya Ayyar* for respondents.

The Court (Collins, C.J., and Brandt, J.) delivered the following

JUDGMENT:—There is no evidence whatever of any loss or injury to the appellants in consequence of irregularity in the proceedings even if there were such irregularities, as to which we need express no opinion.

The appeal then fails as against respondents Nos. 1 and 3 and is dismissed as against them with costs.

It is contended that a vakíl is an officer of the Court having a duty to perform in connexion with a sale in execution of a decree in a suit in which he is engaged by a party to the suit. If this is so, the sale in so far as the three items of property purchased by R. Ráma Subbayyar, respondent No. 2, are concerned must be set aside as void.

* Appeal against Order 186 of 1885.

ALAGIRISÁMI
v.
RAMANÁTHAN.

It is true that vakils are spoken of, and are in some sense officers of the Court, but we think that the words used in s. 292 of the Code of Civil Procedure are not used in this sense, and that a vakil cannot be said to have a duty to perform in connexion with the sale as therein required. *Goshain Jug Roop Geer v. Chingun Lal*(1) has been cited as indicative of the probable intention of the Legislature, but it appears to us that if the Legislature having that case in view had intended to prohibit vakils generally from purchasing, they would have said so in plain language as they have in the Transfer of Property Act.

We must have regard rather to being assured that a civil right has been expressly taken away from a class or section of the public than to what may or may not be desirable.

We consider the appeal fails as against the respondent No. 2 also and dismiss it with costs.

APPELLATE CIVIL.

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

VENKATAVARAGAPPA (DEFENDANT), APPELLANT,
and

THIRUMALAI AND OTHERS (PLAINTIFFS), RESPONDENTS.*

Landlord and tenant—Hindú law—Wells dug with consent of landlord—Compensation.

Where tenants from year to year, with permission of the landlord, sank wells in the land demised :

Held, that they were not entitled under Hindú law to any compensation therefor from the landlord after the determination of the tenancy.

APPEALS from the decrees of K. R. Krishna Menon, Subordinate Judge at Tinnevely, modifying the decrees of G. Rámasámi Pillai, District Múnsif of Tinnevely, in suits 167, &c., of 1883.

The facts necessary for the purpose of this report are set out in the judgment of the Court (Collins, C.J., and Kernan, J.).

Bhúshyam Ayyangár for appellant.

Subramanya Ayyar for respondents.

(1) 2 N.W.P., 46.

* Second Appeals 56 to 61, 65, 66 and 73 of 1886.