

The decree of the Lower Appellate Court should be reversed and that of the District Munsif restored, and the respondent must bear appellant's costs in this and in the Lower Appellate Court.

VENKATRA-
MANNA
v.
VIRAMMA.

APPELLATE CRIMINAL.

Before Mr. Justice Parker.

GREGORY

against

VADAKASI KANGANI.*

1886.
September 28.

Act XIII of 1859—Jurisdiction—Breach of contract to labour in foreign territory.

V having received an advance of money from G, contracted to labour for him in foreign territory. Having broken the contract V was prosecuted under Act XIII of 1859, ordered to repay, and sentenced to imprisonment in default :

Held, that the order was illegal.

CASE referred to the High Court by S. H. Wynne, Acting District Magistrate of Tinnevely, in calendar case No. 10 of 1886 on the file of the Second-class Magistrate of Tenkasi.

The facts were stated as follows :—

“The magistrate has directed a man to pay up a sum under the Contract Act XIII of 1859, and, in default, ordered him to be kept in rigorous imprisonment for one month, which sentence has been undergone.

“The contract was for work in Travancore territory. This is beyond the limits of British India, and the Act does not apply, though the contract was made in British territory (High Court Proceedings, 15th December 1876, No. 2940).”

Counsel were not instructed.

The Court (Parker, J.) delivered the following

JUDGMENT :—The defendant was prosecuted under the Breach of Contract Act XIII of 1859, and was ordered to repay the money advanced. It is not stated whether the contract was made in British territory, but the work was to be performed in foreign territory.

GREGORY
v.
VADAKASI
KANGANI.

The case is similar to that on which the High Court Proceedings of 15th December 1876, No. 2940, were passed, in which case it was shown that the contract was made in British territory. It was then held that such an order was *ultrâ vires*.

The order of the Second-class Magistrate must be set aside.

APPELLATE CIVIL.

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

NÁRÁYANA NAMBI (DECREE-HOLDER), APPELLANT,

and

PAPPI BRAHMANI AND ANOTHER (JUDGMENT-DEBTOR'S
REPRESENTATIVES), RESPONDENTS.*

1886.
August 20, 80.

*Limitation Act, sch. II, arts. 178, 179—Decree—Execution—Attachment set aside—
Time occupied in suing to declare property liable to attachment not excluded from
computation.*

An application for execution of a decree having been made in 1880, certain land was attached as being the property of the judgment-debtor (deceased). His children thereupon claimed the land and the attachment was raised. Upon this, the judgment-creditor sued to establish his right to sell the land in execution and obtained a decree in 1882, which was confirmed on appeal in 1883. In 1885, the judgment-creditor again applied for attachment and sale of the same land:

Held that the application was barred by limitation—*Paras Ram v. Gardner*, I.L.R., 1 All., 355, dissented from.

APPEAL against an order of H. J. Stokes, Acting District Judge of South Malabar, reversing an order of the District Munsif of Chowgát in execution of the decree in suit 132 of 1877.

In suit No. 132 of 1877, the decree-holder, Thengil Náráyana Nambi, applied for execution, on the 19th June 1880, by attachment of certain land, the property of the deceased judgment-debtor, Undadi Vasu Nambi. After attachment his daughter Pappi Brahmani and two others presented claim petitions, and the attachment was withdrawn. The decree-holder then instituted suit No. 383 of 1882 on 10th July against the claimants, and on the 13th September the Court decreed that the property which had been attached was liable to be sold in satisfaction of the decree.

* Appeal against Appellate Order 56 of 1885.