relating to my tarwad." It does not purport to limit the agency to special matters or to the management of property only, but it purports to put the delegate in the karnavan's place in regard to all the affairs of the tarwad. The apparent intention was to impose upon the tarwad the management and the authority of the karnavan's son, and no effect can be given to it without contravening the special usage of the district. The decision of the Judge cannot be supported, and the transaction evidenced by exhibit B was in excess of the karnavan's authority as such and in violation of the right of his tarwad. We set aside the decree of the District Judge and restore that of the District Munsif. The respondent will pay the appellant's costs both in this Court and in the Lower Appellate Court.

APPELLATE CIVIL.

Before Mr. Justice Muttusami Ayyar and Mr. Justice Wilkinson.

GANAPATI AND ANOTHER (PLAINTIFFS), APPELLANTS,

v.

CHATHU (DEFENDANT No. 3), RESPONDENT.*

1889. Jan. 14, 21.

Civil Procedure Code, s. 13—*Res judicata—Competent Court—Pecuniary valuation of suit—Court Fees Act* (*Act VII of* 1870,) *s.* 12, *sch. II, art.* 17 *iii—Suit for a declaratory decree.*

A suit for two declarations filed in a Subordinate Court was valued by the plaintiffs at a sum in excess of the pecuniary jurisdiction of a District Munsif. It was pleaded that the matter in dispute was *res judicata* by reason of decrees passed in District Munsifs' Courts. No objection was taken in the Subordinate Court to the valuation of the suit:

Held, that the plea of *res judicata* failed.

Per Muttusami Ayyar, J.—For the purposes of jurisdiction the value of a suit for a mere declaratory decree must be taken to be what it would be if the suit were one of possession of the property regarding which the plaintiff seeks to have his title declared.

SECOND APPEAL against the decrees of A. F. Cox, Acting District Judge of North Malabar, in appeal suits Nos. 260 and 285 of 1887, reversing the decree of K. Kunjan Menon, Subordinate Judge of North Malabar, in original suit No. 36 of 1886.

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* Second Appeal No. 883 of 1888.

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Suit to declare that the tarwads of the plaintiffs and defendants Nos. 1 and 2 (the karnavans of the two plaintiffs respectively) have the sole uraima right to a certain devasom and that the tarwad of the defendant No. 3 has no uraima right to it. Defendants Nos. 1 and 2 were *ex parte*.

Defendant No. 3 pleaded *inter alia* that plaintiffs' claim was *res judicata* by reason of the decree in original suit No. 361 of 1884 on the file of the District Munsif of Cannanore. That was a suit brought by the present defendants Nos. 1 and 2 to compel the present defendant No. 3 to furnish accounts of the devasom affairs. The defendant denied their claim to be uralars and the suit was dismissed. The Subordinate Judge held that the plea of *res judicata* failed, because neither the District Munsif of Cannanore nor the District Munsif of Chavascherry, in respect of whose decree in another suit a similar plea was raised, was competent to try the present suit. And he passed a decree declaring that the tarwads of the plaintiffs and defendants Nos. 1 and 2 have uraima right to the devasom in question.

Against this decree both the plaintiffs and defendant No. 3 presented appeals.

The District Judge on appeal dismissed the plaintiffs' suit, being of opinion that the above plea should prevail. With regard to the competence of the Courts which decided the previous suits to entertain the present suit, he said :—

"The plaintiffs evidently feared the plea of *res judicata*, and to escape from it if posssible, very cunningly valued their suit so as to take it out of a District Munsifs' jurisdiction. But in doing this, they have certainly overvalued it by taking five times the assessment of all the devasom lands on the value of the devasom structure as the basis of valuation. They are not personally interested in those lands or in the structure. The right they seek to have declared is either incapable of valuation or is worth only what they would receive as salary, and that is 720 seers of paddy a year. It is urged that they would receive fees, but, even estimating these in a liberal manner, the suit would certainly be one which could be decided in the Court of a District Munsif."

The plaintiffs preferred this second appeal on the following (among other) grounds :—

(1) The Lower Appellate Court is wrong in holding that the plaintiffs' claim is *res judicata* by the decision in original

suit No. 361 of 1884 on the file of the District Munsif's Court at Cannanore.

(2) The District Judge is wrong in holding that the present suit is one cognizable by the Court of a District Munsif.

(3) No objection was taken either to the valuation of the suits or to the jurisdiction of the Sub-Judge.

(4) The principle on which the suit was valued for purposes of jurisdiction is the correct one.

Bhashyam Ayyangar for appellants.

Mr. Gantz for respondent.

The arguments adduced on this second appeal appear sufficiently for the purpose of this report from the judgments of the Court (Muttusami Ayyar and Wilkinson, JJ.).

WILKINSON, J.—The Lower Appellate Court was wrong in holding that the appellants' claim was *res judicata*. The former suits were tried by a District Munsif, and as laid down by the Privy Council, the words "Court of competent jurisdiction" in s. 13 of the Civil Procedure Code mean a Court which has jurisdiction over the matter in the subsequent suit, in which the decision is used as conclusive, in other words a Court of concurrent jurisdiction, *i.e.*, concurrent as regards the pecuniary limit as well as the subject-matter. No objection was taken in the Subordinate Court to the valuation of the suit, and the suit as valued was not within the jurisdiction of a District Munsif. We are not prepared to say that the principle on which the suit was valued was contrary to law. We must therefore set aside the decree of the Lower Appellate Court and remand the appeals to be heard and determined on its merits. Costs to abide and follow the result.

MUTTUSAMI AYYAR, J.—For the purposes of jurisdiction the value of a suit for a mere declaratory decree must be taken to be what it would be if the suit were one for possession of the property regarding which the plaintiff seeks to have his title declared. The declaration is made in view to protect existing possession, but it is not intended that Courts with limited pecuniary jurisdiction should take cognizance of all suits for declaratory decrees irrespective of the value of the property to which the title declared by those decrees might relate. For instance, a karnavan suing to establish his right of management is not entitled to institute his suit in the Court of the District Munsif when the value of the suit

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would exceed Rs. 2,500 if it were valued as a suit for possession. On this ground also I concur in the order proposed by my learned colleague.

APPELLATE CRIMINAL.

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

1889. Feb. 13, 15.

QUEEN-EMPRESS

v.

RAMI REDDI *

Forest Act—Act V of 1882 (*Madras*), *ss.* 6, 10, 16, 21—*Tree* patta—*Trespass.*

The holder of a *patta* of certain trees on land which had been declared a reserved forest was convicted of trespass under the Madras Forest Act on proof that he had continued to gather the produce of the trees:

Held, that the conviction was bad for want of proof, that the pattadar's claim had been duly disposed of or that he had not preferred his claim within the period required by law.

PETITION under ss. 435 and 439 of the Code of Criminal Procedure praying the High Court to revise the proceedings of the Special Deputy Magistrate of North Arcot in appeal No. 21 of 1888 confirming the conviction and sentence in case No. 106 of 1888 on the file of the Second-class Magistrate of Chittoor.

Petitioner was convicted of the offence of trespass under s. 21 of the Madras Forest Act. The land upon which the offence was alleged to have been committed had been constituted a reserved forest by a Government Notification dated 16th July 1885; this notification was cancelled by a subsequent notification published on 20th August 1885; but it was subsequently, on 8th February 1887, republished, that of 20th August 1885 being annulled.

The provisions of the Madras Forest Act as to "notifications declaring forest reserved" are as follows:—

Sec. 16. "When the following events have occurred, namely—

(*a*) the period fixed under section six for preferring claims has

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* Criminal Revision Case No. 712 of 1888.