

ANNAMALAI  
v.  
SUBBARAYAN  
MANTAN.

away by defendant while plaintiff was in possession. This is not a suit, in our opinion, exempted from the jurisdiction of the Small Cause Court by clause 31, Act IX of 1887. The suit was therefore of a nature cognizable by a Court of Small Causes within the meaning of section 586 of the Civil Procedure Code, and no second appeal lies; and it makes no difference that, in the course of investigation of the suit, it appeared that defendant, in carrying off the crops, was acting under color of some claim of title to the land.

We agree generally with the principles laid down in *Krishna Prosad Nag v. Maizuddin Biswas*(1), the authority of which is not shaken by the decision in *Sriram Samanta v. Kalidas Dey*(2).

The second appeal must be dismissed with costs.

The memorandum of objections also must be dismissed with costs.

---

## APPELLATE CIVIL.

*Before Mr. Justice Parker and Mr. Justice Shephard.*

1891.  
Dec. 11, 15.

SUBBARAYA (PLAINTIFF), APPELLANT,

v.

KYLASA AND OTHERS (DEFENDANTS), RESPONDENTS.\*

*Hindu law—Inheritance—Step-sister's son.*

A step-sister's son is entitled to inherit under the Hindu law in force in the Madras Presidency.

APPEAL against the decree of G. D. Irvine, District Judge of Coimbatore, in original suit No. 2 of 1890.

The plaintiff sued for possession of certain property left by Ramasami Mudaliar, deceased, the brother of the plaintiff's mother. An issue was raised as follows:—"Was plaintiff's mother the "uterine sister or only the half-sister of Ramasami Mudaliar?" The finding on this issue was that Ramasami Mudaliar and the plaintiff's mother were children of the same father by different wives. The District Judge held that the plaintiff was not within

(1) I.L.R., 17 Cal., 707.

(2) I.L.R., 18 Cal., 316.

\* Appeal No. 40 of 1891.

the line of inheritance to Ramasami Mudaliar, and dismissed the suit without trial of various other issues which were raised on the pleadings.

SUBBARAYA  
2.  
KYLASA.

The plaintiff preferred this appeal.

*Ramachandra Ayyar* for appellant.

*Rama Rau* and *Sadagopachariar* for respondent No. 11.

*Ramasami Mudaliar* for respondents Nos. 8, 9 and 14.

*Mahadeva Ayyar* for respondents Nos. 5 and 6.

*Ragavendra Rau* for respondents Nos. 4 and 21.

JUDGMENT.—The question is whether the plaintiff, whose mother is found to have been the step-sister of Ramasami Mudaliar, now deceased, stands in the line of inheritance to him ?

If he were the son of Ramasami's sister of the full blood, there can be no doubt that he would be so entitled, being a *bandhu* of the deceased ; but it has been argued that a step-sister's son does not stand on the same footing as a sister's son, and, with regard to the cases cited, it is said that they are of no authority in this presidency.

Apart from those cases we are of opinion that the position of the step-sister's son cannot be distinguished from that of the sister's son. The relationship between the maternal uncle and his sister's son or step-sister's son is alike that of *sapindas*, for, in both cases, there is a common grandfather and "the relation of *sapindas* arises from connection as parts of one body." See *Mitakshara* cited in *Anrita Kumari Devi v. Lakhinarayan Chuckerbutty*(1) and *Mari v. Chinnammal*(2). As to the other condition requisite to make the plaintiff a *bandhu* there is no doubt, for clearly he is sprung from a different family. It was contended that the decision in *Mari v. Chinnammal*(2) with reference to the position of the step-mother was adverse to the present claim ; but that contention is answered by the observation that the exclusion of a woman in no way involves the exclusion of her offspring. There are several cases in which the children have rights which their mother would not have (Mayne's Hindu Law, § 492, *Rayaningarau v. Venkata Gopala Narasimha Rau*(3)). The observation of *Muttusami Ayyar, J.*, in *Mari v. Chinnammal*(2) seems to show that, in his opinion, the right of the step-sister's son must

(1) 2 B.L.E., 33.

(2) I.L.R., 8 Mad., 126.

(3) 6 M.H.C.R., 278.

SUBHARAYA  
v.  
KYLASA.

be recognized. For these reasons we are of opinion that the judgment of the District Judge must be reversed, and the suit remanded for trial. Costs to abide event.

---

## APPELLATE CIVIL.

*Before Mr. Justice Shephard and Mr. Justice Subramanya Ayyar.*

BAIRAGULU AND ANOTHER (PLAINTIFFS), APPELLANTS,

v.

BAPANNA (DEFENDANT), RESPONDENT.\*

*Civil Procedure Code, ss. 244, 258—Suit for declaration of satisfaction of a decree—Satisfaction of decree out of Court.*

A judgment-debtor, alleging that he had entered into an agreement with the decree-holder in satisfaction of his decree, and that the latter had, in breach of such agreement, procured the issue of a warrant of attachment, now sued for a declaration that the decree had been satisfied, and prayed also for the cancellation of the warrant of attachment :

*Held*, that the suit was not maintainable.

SECOND APPEAL against the decree of C. Ramachandra Ayyar, Acting District Judge of Nellore, in appeal suit No. 267 of 1889, affirming the decree of V. Subramanya Ayyar, District Munsif of Ongole, in original suit No. 111 of 1889.

The facts of the case are stated above sufficiently for the purpose of this report.

The plaintiff preferred this second appeal.

*Seshagiri Ayyar* for appellants.

*Ramachandra Rau Sahib* for respondent.

JUDGMENT.—The suit has been dismissed on the ground that the matter in question, viz., the satisfaction of the decree is a matter which should be dealt with by the Court in execution of the decree, and not by a separate suit.

It is clear that it is of this nature.

The effect of section 258 of the Civil Procedure Code is only to exclude proof of an uncertified agreement in execution proceedings. It does not limit the operation of section 244. The

---

\* Second Appeal No. 816 of 1891.