

KRISHNAYYA
v.
THE BELLARY
MUNICIPAL
COUNCIL.

the definition of the word street in section 3. According to that, private property is exempted from the action of the Commissioners. It seems to us absurd to suppose that section 169 empowers the Commissioners to prevent a person dealing with his own property, provided he does not interfere with the convenience of the public or with any sanitary regulation. If the pyal in front of a house is not private property, the Municipal Commissioners would undoubtedly have the right to grant or withhold a license for roofing it, but when, as in the present case, the pyal is private property, the right of the Commissioners to interfere cannot arise, until the owners building projects beyond his own limits. In the words of the section, the erection must not cause any public inconvenience. We reverse the decree of the District Judge and restore that of the Munsif with costs in this and the Lower Appellate Court.

APPELLATE CIVIL.

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

PARATHAYI (PLAINTIFF), APPELLANT,

v.

SANKUMANI AND OTHERS (DEFENDANTS), RESPONDENTS.*

*Court Fees Act—Act VII of 1870, sched. 1, art. 1—Cancellation of an agreement
to sell—Ad valorem fee.*

The plaintiff had executed an agreement to sell certain property in discharge of mortgages executed on his behalf during his minority. He now brought a suit alleging that the agreement had been extorted from him, and praying for a declaration that the agreement was not binding on him and for any other relief "which the Court considers to be reasonable."

Held, that the plaintiff was bound to pay Court-fees upon the value of his interest in the document sought to be invalidated.

APPEAL against the decree of E. K. Krishnan, Subordinate Judge of Calicut, in original suit No. 20 of 1889.

* Appeal No. 26 of 1891.

The plaint began as follows :—

“ A karar is executed and registered on the 15th karkidakam PARATHAYI
 “ 1061 (29th July 1886) jointly by the first defendant, and, by v.
 “ his compulsion, defendants Nos. 2 to 4 and the plaintiff, stipulat- SANRUMANT.
 “ ing to sell and purchase lands that will be sufficient for interest
 “ at the rate of Rs. 5 for Rs. 100 and 5 paras of paddy for 100
 “ fanams, on the rent that will be fixed by arbitrators, on the lands
 “ charged with Rs. 60,500 follows:—Rs. 30,000 under a panayam
 “ deed executed on the 10th karkidakam 1057 (20th July 1882)
 “ on 254 items of land, the jenm of the plaintiff’s tarwad, by
 “ defendants Nos. 2 to 4 and mother, Koehukurumpa, and others
 “ in the capacity of the plaintiff’s guardian, together with Rs.
 “ 17,000, under 3 purumkadum deeds, on the same lands, thus
 “ Rs. 47,000 and Rs. 13,000 on settling the past accounts and
 “ Rs. 500 paid ready money, thus altogether amounting to Rs.
 “ 60,500.”

The plaint proceeded to allege that the instrument of 29th July 1886 had been executed under coercion and that the debts secured by the other documents above referred to were not binding on him. The prayers of the plaint were as stated above.

The Court fee stamp affixed to the plaint was Rs. 10 only. The Subordinate Judge held that this was insufficient and ordered the payment of an *ad valorem* fee on Rs. 60,500. This payment was not made and the Subordinate Judge rejected the plaint.

The plaintiff preferred this second appeal.

Sankaran Nayar for appellant.

Ramachendra Ayyar for respondent, No. 1.

JUDGMENT.—We are of opinion that the plaintiff was bound to pay duty upon the value of his interest in the document, the invalidity of which he sought to have declared. He had executed an agreement to sell certain property, in discharge of mortgages executed on his behalf during his minority. His agreement virtually amounted to a ratification of those mortgages, which he cannot avoid, so long as the agreement executed, after he attained his majority, stands. A declaration of the invalidity of that document would afford plaintiff relief of a very substantial character, and we think that plaintiff was not entitled to sue for a bare declaration and to stamp his plaint accordingly. The appeal fails and is dismissed with costs.