

APPELLATE CIVIL.

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

NARAYANAN (PLAINTIFF No. 1), APPELLANT.

1891.
October 8.

v.

NARAYANAN AND OTHERS (DEFENDANTS NOS. 2 TO 14 AND
PLAINTIFFS NOS. 2 TO 18), RESPONDENTS.*

*Civil Courts Act (Madras)—Act III of 1873, s. 12—Jurisdiction—Valuation of
relief—Suit for partition.*

In an appeal against a decree of a Subordinate Judge dismissing a suit brought by the members of one Nambudri illom against the members of another for partition and delivery of a moiety of the property of an extinct illom, it appeared that the value of the share claimed was less than Rs. 5,000 :

Held that the appeal lay to the District Court. *Krishnasami v. Kanakasabai* (I.L.R., 14 Mad., 183) followed.

APPEAL against the decree of E. K. Krishnan Subordinate Judge of Calicut, in original suit No. 16 of 1889.

Suit for the partition and delivery to the plaintiffs of the property formerly belonging to a Nambudri illom known as Varanasi, which was now extinct.

The Varanasi illom and those of which the plaintiff and defendants were respectively members were branches of the same illom. The plaintiffs sued as co-heirs and successors with the defendants of the extinct illom.

The value of the share claimed was Rs. 2,743-1-4.

The Subordinate Judge passed a decree dismissing the suit.

The plaintiffs preferred this appeal.

Bhashyam Ayyangar and *Sankaran Nayar* for appellant.

Sankara Menon for respondents Nos. 1 to 6.

Sundara Ayyar for respondent No. 1.

JUDGMENT.—We think that we should follow the principle laid down in *Krishnasami v. Kanakasabai*(1) and other cases instead of that laid down in *Vydinatha v. Subramanya*(2) on the ground that when the Varanasi illom became extinct there were,

* Appeal No. 132 of 1890.

(1) I.L.R., 14 Mad., 183.

(2) I.L.R., 8 Mad., 235.

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according to plaintiffs' own case, only two illoms entitled to share in the property of the extinct illom. The value of the suit is, therefore, the value of the share claimed, and the appeal lies to the District Court. We return the appeal to be presented in the proper Court. Appellant must pay respondents' costs in this Court.

APPELLATE CIVIL.

Before Mr. Justice Shephard and Mr. Justice Handley.

RAMAYYAR (PLAINTIFF), APPELLANT,

v.

SHANMUGAM AND OTHERS (DEFENDANTS), RESPONDENTS.*

Alteration in document sued on, materiality of--Forged attestation.

In a suit on a hypothecation bond, dated before the Transfer of Property Act came into operation, and executed in favour of the plaintiff by the father (deceased) of defendant No. 1, it appeared that, after the bond had come into the hands of the plaintiff, the name of defendant No. 1 had been added as that of an attesting witness and that this was a forgery:

Held, that the plaintiff was not precluded from recovering by reason of this alteration in the bond sued on:

SECOND APPEAL against the decree of W. F. Grahame, District Judge of Tinnevely, in appeal suit No. 326 of 1889, reversing the decree of V. Kuppusami Ayyar, District Munsif of Ambasamudram, in original suit No. 1022 of 1888.

Suit to recover the principal and interest due on a hypothecation bond, dated 18th January 1881, executed by the father (deceased) of defendant No. 1, who was the father of defendants Nos. 2 and 3. The instrument sued on purported to contain the signature of defendant No. 1 as an attesting witness, but it was found that this signature was a forgery and had been added after the instrument came into the hands of the plaintiff.

The District Munsif passed a decree for the plaintiff. This decree was reversed on appeal by the District Judge, who held that the instrument had been materially altered, and the plaintiff was thereby precluded from recovering on it on the authority of

* Second Appeal No. 1234 of 1890.