

KUNHANUJAN
v.
ANVELU.

that the lessee may transfer absolutely or by way of mort gage or sub-lease the whole or any part of his interest in the property, and the lessee shall not, by reason of such transfer, cease to be subject to any of the liabilities attaching to the lease. But from this it does not follow that the transferee is not also liable. The lessor may at the same time sue the lessee upon his express covenant, and the assignee upon the privity of estate, though he can have execution against one only. (Woodfall's Landlord and Tenant, 11th Edition, 238). I do not, therefore, consider that this petition can be supported, and I dismiss it with costs.

APPELLATE CIVIL.

Before Mr. Justice Muttusami Ayyar and Mr. Justice Best.

1893.
October 12.

VENKATANARASIMHA NAIDU (PETITIONER),

v.

SURANNA (RESPONDENT).*

Rent Recovery Act—Madras Act VIII of 1865, s. 76—Civil Procedure Code, ss. 4, 622.

Orders passed by a Collector under the Rent Recovery Act are not open to revision under s. 622 of the Civil Procedure Code. *Velli Periya Mira v. Moidim Padsha*(1) followed.

PETITIONS under section 622 of the Civil Procedure Code praying the High Court to revise the order of C. Venkatajugga Row, Assistant Collector of Kistna, dated 9th March 1892, passed in summary suits Nos. 100 and in others.

The petitioner, a zamindar, applied under section 10 of the Rent Recovery Act to eject a tenant on the ground that he had not, in accordance with a decree of the Assistant Collector given in a suit to enforce the acceptance of patta brought by the petitioner against the tenant, accepted patta and presented a muchilika as directed. The Assistant Collector rejected the application, and the zamindar presented this petition under section 622 of the Civil Procedure Code.

Pattabhirama Ayyar for appellant.

Seshagiri Ayyar for respondent.

* Civil Revision Petitions Nos. 489 of 1892, &c.

(1) I.L.R., 9 Mad., 332.

JUDGMENT.—The preliminary point in this case is whether orders passed under Madras Act VIII of 1865 by a Collector are open to revision under section 622 of the Code of Civil Procedure.

VENKATA-
NARASIMHA
NAIDU
*.
SUBBANNA.

The question was answered in the negative in *Velli Periya Mira v. Moidin Padsha*(1), which was followed in *Appandai v. Srihari Joishi*(2).

It has now been contended that the revision mentioned in section 76 of Act VIII of 1865 (Madras) means revision by the Court which made the order and not revision by a superior Court. We are unable thus to limit the scope of the word by introducing words which are not to be found in the section.

As to the contention that Act VIII of 1865 is a local Act and cannot override the provisions of section 622 of the Code of Civil Procedure by the powers conferred on this Court under the Letters Patent, we need only refer to section 4 of the Code of Civil Procedure.

We do not see sufficient ground for dissenting from the decision in *Velli Periya Mira v. Moidin Padsha*(1).

This petition is dismissed with costs.

APPELLATE CIVIL.

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

TIRTHA SAMI (PLAINTIFF), APPELLANT,

1893.
October 30.

v.

SESHAGIRI PAI AND OTHERS (DEFENDANTS), RESPONDENTS.*

Limitation—Limitation Act (Act XV of 1877), s. 14—Deduction of time during prosecution of suit with due diligence—Defect of jurisdiction—Other cause of a like nature.

Where a previous suit by the same plaintiff against the same defendant has failed by reason of misjoinder of causes of action and parties, the plaintiff in a second suit is not entitled to the extra period of limitation allowed by section 14

(1) I.L.R., 9 Mad., 332.

(2) I.L.R., 16 Mad., 451.

* Second Appeal No. 639 of 1892.