

NARASIMMA
CHARIAR
v.
SINNAVAN.

Mahadeva Ayyar for petitioner.

Srirangachariar for respondent.

JUDGMENT.—We agree with the District Munsif that section 28 of the Legal Practitioners Act is applicable. The plaintiff may, however, recover reasonable remuneration for the work done by him for the benefit of the client on the principle *quantum meruit*, *Krishnasami v. Kesava*(1).

The District Munsif refused to go into this question on the ground that the person benefited, viz., the second defendant, in the criminal case, was no party to the present suit. We observe, however, that the plaintiff would not have gone into Court at all but for the guarantee given by the first defendant, and the latter would have been in that case undefended. The first defendant then derived benefit from the plaintiff going into Court to defend him and the second defendant jointly. We think, therefore, that the plaintiff may recover reasonable remuneration for the services he rendered. We therefore set aside the decree of the District Munsif with costs and direct him to restore the suit to his file and dispose of it on the merits.

APPELLATE CIVIL.

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

LINGUM KRISHNABHUPATI DEVU (PETITIONER),
APPELLANT,

v.

KANDULA SIVARAMAYYA (COUNTER-PETITIONER),
RESPONDENT.*

Civil Procedure Code—Act XIV of 1882, ss. 243, 588—Stay of execution pending suit between decree-holder and judgment-debtor—Stay of execution refused—Appeal.

An appeal lies from an order refusing stay of execution under Civil Procedure Code, section 243, pending a suit between a decree-holder and his judgment-debtor.

APPEAL against the order of H. R. Farmer, District Judge of Vizagapatam, in Miscellaneous Petition No. 78 of 1896.

This was a petition under section 243 of the Code of Civil Procedure preferred by the judgment-debtor in Original Suit No. 11

(1) I.L.R., 14 Mad., 63.

* Appeal against Order No. 52 of 1896.

of 1883, praying that the execution of the decree in that suit be stayed pending disposal of a suit instituted by him against the decree-holder.

The District Judge in his order said: "Under the circumstances I resolve to refuse to stay execution absolutely under section 243, but, at the request of counter-petitioner's pleader, a month's time will be given him to apply to the High Court If no orders staying execution are received from the High Court within a month and if no further time be granted execution will proceed."

The judgment-debtor preferred this appeal.

Mr. *Adam* and *R. Subramania Ayyar* for appellant.

Ramachandra Rau Sahab for respondent.

JUDGMENT.—A preliminary objection is taken on the ground that the order appealed against was passed under section 243 of the Civil Procedure Code, and that no appeal lies against such an order. We do not think that this contention can be upheld. Following the reasoning and the rulings in the cases of *Ghazidin v. Fakir Bakhsh*(1), *Kassa Mal v. Gopi*(2), *Steel & Co. v. Ichchamoyi Chowdhraïn*(3), we hold that an appeal lies. We therefore disallow the preliminary objection.

As to the merits, the District Judge states that he does not consider that the appellant will have difficulty in recovering any sum that may now be paid over to the respondent in execution of the decree. The decree was passed as long ago as 1883. We dismiss this appeal with costs.

LINGUM
KRISHNA-
BHUPATI
DEVU
V.
KANDULA
SIVA-
RAMAYYA.

APPELLATE CIVIL.

Before Mr. Justice Subramania Ayyar and Mr. Justice Boddam.

RANGAYYA APPA RAU (PLAINTIFF), APPELLANT,

v.

KAMESWARA RAU AND ANOTHER (DEFENDANTS), RESPONDENTS.*

Registration Act—Act III of 1877, s. 17—Deed of relinquishment by tenant to land-holder.

1896.
October 29.
November 6.

An instrument by which a tenant in a zamindari, in consideration of the zamindar waiving his right to arrears of rent accrued due, relinquishes the land

(1) I.L.R., 7 All., 73. (2) I.L.R., 10 All., 889. (3) I.L.R., 13 Calc., 111,

* Second Appeal No. 925 of 1895.