

Seven days will be allowed for filing objections after the finding has been posted up in this Court.

NALLAPPA  
REDDI  
v.  
RAMA-  
LINGACHI  
REDDI.

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APPELLATE CIVIL.

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

KALIAPPA GOUNDEN (PLAINTIFF), APPELLANT,

1896.  
October 14.

v.

VENKATACHALLA THEVAN AND OTHERS (DEFENDANTS),  
RESPONDENTS.\*

*Madras Act II of 1864, s. 38 — Sale for arrears of revenue—Confirmation of sale after cancellation.*

When a Collector has passed an order under section 38 of Madras Act II of 1864, setting aside a sale for arrears of revenue, he cannot subsequently confirm the sale.

SECOND APPEAL against the decree of T. Weir, District Judge of Coimbatore, in Appeal Suit No. 211 of 1893, reversing the decree of T. T. Rangachariar, District Munsif of Coimbatore, in Original Suit No. 154 of 1892.

This was a suit to recover certain land with mesne profits. The land originally belonged to the first defendant, and for arrears of revenue due by him was sold by the Collector on the 20th March 1883 and purchased by the plaintiff.

On the 2nd November 1883 the Collector passed an order setting aside the sale. But on the 29th August 1884 he passed the following order :—

“ Read arzi No. 515 of this year which you submitted, stating that you had (already) under our order given certain information in detail regarding the cancellation of the sale of the fields, Nos. 110 and 111 in the village of Senjeri.

“ The above-mentioned order has been cancelled, and the sale of the said lands is confirmed in the name of Senjeri Kaliappa Gounden who purchased the said lands.”

And on the 8th November 1884 the Collector issued a sale certificate in the name of the plaintiff.

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\* Second Appeal No-844 of 1895.

KALIAPPA  
GOUNDEN  
v.  
VENKATA-  
CHALLA  
THEVAN.

The District Munsif gave the plaintiff a decree, but on appeal the District Judge reversed the decree of the District Munsif.

Plaintiff appealed.

*Ramachandra Rau Saheb* and *Kasturi Rangayyengar* for appellants.

*Desikachariar* for respondents.

JUDGMENT.—There is no provision in Act II of 1864 which enables a Collector to revive a sale which he has once cancelled. In the present case the Head Assistant Collector cancelled the sale on the 2nd November 1883. He had no power to revive the sale nearly a year afterwards as he purports to have done. The issue of the certificate was, therefore, ineffectual to create any title in the plaintiff.

We dismiss this second appeal with costs.

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## APPELLATE CIVIL.

*Before Mr. Justice Shephard and Mr. Justice Davies.*

ARUMUGAM PILLAI (DEFENDANT), APPELLANT,

v.

ARUNACHALLAM PILLAI (PLAINTIFF), RESPONDENT.\*

*Registration of wills after death of testator—Inquiry by registering officer into disability of testator—Indian Registration Act, ss. 35, 40, 41.*

The procedure prescribed by section 35 of the Indian Registration Act is not applicable to the registration of wills which, under section 40 of that Act, are presented for registration after the death of the testator by persons claiming under them.

SECOND APPEAL against the decree of E. J. Sewell, Acting District Judge of Tanjore, in Appeal Suit No. 211 of 1894, confirming the decree of C. Venkobachariar, Subordinate Judge of Tanjore, in Original Suit No. 80 of 1893.

The plaintiff, the maternal uncle of one Manikam Pillai, deceased, applied to have a document purporting to be the will of Manikam Pillai registered. The Sub-Registrar refused registration, and on appeal the Registrar confirmed the decision of the Sub-Registrar. Thereupon the plaintiff filed this suit under

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\* Second Appeal No. 1067 of 1895.