

VOLKART
v.
SABJU SAHEB.

“Civil Procedure Code, and section 69, Presidency Small Cause Courts Act, for the opinion of the High Court, and reserve judgment until the disposal by the High Court of this reference.

“Upon the question referred, I had, after the pleas were put in and before the examination of witnesses began, ruled in plaintiffs’ favour, being of opinion that the stipulation in question on which they relied in exhibit A entitled them, and indeed bound them, to treat each shipment as a separate contract, and that therefore they were entitled to institute separate suits in respect of such separate contracts.”

Mr. *K. Brown* for plaintiffs.

Mr. *R. F. Grant* for defendants.

JUDGMENT.—Our answer to the question referred to us is that the terms of the contract in exhibit A are clear, and under it the plaintiffs are, in our opinion, entitled to bring two separate suits as they have done one in respect of each shipment.

Attorneys for plaintiffs *Wilson & King*.

Attorney for defendants *James Short*.

APPELLATE CIVIL.

Before Mr. Justice Subramania Ayyar.

MUTHUNARAYANA REDDI (DEFENDANT No. 1),
APPELLANT,

v.

BALAKRISHNA REDDI AND OTHERS (PETITIONER AND
PLAINTIFFS NOS. 1 AND 2), RESPONDENTS.*

Assignment of decree by one of two decree-holders valid—Civil Procedure Code, s. 232.

There is no prohibition in law against one of several decree-holders assigning his interest under the decree :

Held, that the assignee is entitled to execute under section 232, unless the judgment-debtor can show that such a proceeding is prejudicial to his interest.

APPEAL against the order of H. H. O’Farrell, Acting District Judge of South Arcot, passed in civil miscellaneous petition No. 168 of 1895.

* Appeal against order No. 10 of 1896.

MUTHU-
NABAYANA
REDDI
v.
BALA-
KRISHNA
REDDI.

Petition presented under section 232 of the Civil Procedure Code by Balakrishna Reddi, son of Andi Reddi, of Vikravandi in Villupuram taluk, being the assignee of plaintiff No. 1, Lakshminarayana Reddi, in respect of his rights under the decree in this suit.

Plaintiff No. 1 is entitled to half of the rights due under this decree. The said plaintiff No. 1 transferred to this petitioner the rights due to him under the decree, on the 14th May 1895, by a registered deed upon receiving, in consideration therefor, Rs. 3,500 including interest due up to 14th May 1895.

The assignee claimed to be entitled to execute the decree for recovery of the amount in lieu of the first plaintiff. Defendant No. 1 objected that the assignment was by one plaintiff only while there were two plaintiffs on the record.

The Acting District Judge overruled the objection.

Defendant No. 1 appealed.

Pattabhirama Ayyar for appellant.

Krishnasami Ayyar for respondents.

JUDGMENT.—The objection taken is that, unless all the decree-holders join in assigning the whole of the interest possessed by them under the decree, no order should be passed under section 232, Civil Procedure Code. The decision in *Kishore Chand Bhakat v. Gisborne and Company*(1) is an authority against this contention. Following that case, I hold that there is no prohibition in law against one of several decree-holders assigning his interest under the decree. Whether such an assignment ought to be recognised under the section of the code referred to above and the assignee permitted to take out execution must depend upon the circumstances of each case. Here, however, I see no objection to the first respondent being permitted to execute the decree according to law. The appellant was not able to show how he would have been prejudiced by the respondent being allowed to execute the decree. The order of the District Judge was right. The appeal is rejected with costs of the first respondent.

(1) I.L.R., 17 Calc., 341.