

CHINNASAMI
PILLAI
v.
KARUPPA
UDAYAN.

However, the case is one in which all that is required to be done to put matters right is a mere formal amendment in the petition of appeal, which we allow the appellant to make.

Now as to the Subordinate Judge's order itself, it is clearly wrong. In a case like this, whether it falls under section 8 of the Suits Valuation Act, or under 14 of Act III of 1873 the value for the computation of Court-fees and that for the purpose of jurisdiction are the same, viz., the value of the share claimed by the plaintiff. The District Munsif had jurisdiction to try the suit inasmuch as the value of such share was less than Rs. 2,500.

The order of the Subordinate Judge is set aside. The case should be restored to the file and dealt with according to law. We allow the appeal, but in the circumstances, without costs.

APPELLATE CIVIL.

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

RAJAH ESWARA DOSS (DEFENDANT), APPELLANT,

v.

VENKATAROYER (PLAINTIFF), RESPONDENT.*

Civil Procedure Code—Act XIV of 1882, s. 43—Rent Recovery Act (Madras) — Act VIII of 1865, s. 18—Suit by a landlord in the Court of the District Munsif for arrears of rent for two years—Subsequent attachment for rent of a third year accrued due at date of suit.

A zamindar brought a suit in the District Munsif's Court to recover from a tenant on his estate the arrears of rent for two years. Rent for the third year was also due. No claim for it was included in the suit, but the landlord attached the land by summary process under the Rent Recovery Act to recover it. The tenants sued in the Revenue Court under the Rent Recovery Act to have the attachment set aside as illegal:

Held, that the zamindar was not precluded by Civil Procedure Code, section 43, from pursuing his remedies under the Rent Recovery Act and that the attachment was not illegal.

SECOND APPEAL against the decree of S. Russell, District Judge of Chingleput, in Appeal Suit No. 55 of 1896, affirming the decision of M. Tillanayakam Pillai, Deputy Collector of Chingleput, in Summary Suit No. 87 of 1895.

* Second Appeals Nos. 68 to 71 of 1897.

RAJAH
ESWARA
DÖSS
v.
VENKATA-
BOYER.

The defendant was a zamindar and the plaintiffs were tenants on his estate and they brought these suits under the Rent Recovery Act by way of appeal from the attachment of their land for arrears of rent for fasli 1303. It appeared that after these arrears had accrued due, the zamindar had sued his tenants in the District Munsif's Court for the arrears of rent for the two previous faslis. In the present cases the Deputy Collector held that the landlord was prevented by the provisions of Civil Procedure Code, section 43, from recovering the rent for fasli 1303 by summary process, and he accordingly declared the attachment to be illegal and directed that it be cancelled. The District Judge on appeal affirmed this decision, referring to *Taruck Chunder Mookerjee v. Panchu Mohini Debya*(1) and *Madho Prakash Singh v. Murli Manohar*(2).

The defendant preferred this second appeal.

Mr. *N. Subramaniam* for appellant.

Narayana Ayyangar for respondent.

JUDGMENT.—Though by section 43, Code of Civil Procedure, the landlord in circumstances such as these is precluded from suing for rent not included in his previous suit, this does not preclude him from adopting any other remedy the law gives him to enable him to recover his rent, as for instance by distraint under the Rent Recovery Act.

We must, therefore, reverse the decree of both the lower Courts and dismiss the plaintiff's suit with costs throughout.

APPELLATE CRIMINAL.

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

ADIKKAN (ACCUSED No. 1), PETITIONER,

v.

ALAGAN AND OTHERS (COMPLAINANT AND PROSECUTION WITNESSES)
RESPONDENTS.*

1897.
November 1.

Criminal Procedure Code—Act X of 1882, ss. 211, 217 and 560.

A Magistrate, in acquitting a person accused on a charge of theft which he found to be false and malicious, awarded compensation to each of them to be

(1) I.L.R., 6 Calc., 791.

(2) I.L.R., 5 All., 406.

* Criminal Revision Case No. 345 of 1897.