

COLLEC-
TOR OF
VIZAGAPATAM
v.
ABDUL
KHARIM
SAHIB.

devamma(1). Sir T. Muttusami Ayyar there observed:—"The words in the sections are 'succeeds' and 'fails in the suit' and "they refer to the ultimate decision or the result of the suit and not "to the mode in which the decision is arrived at. I should be "doing violence to the language of the section if I introduced into "them the words 'after contest' which I do not find in them." We see no reason to dissent from this view.

We accordingly allow the petition and direct that the plaintiffs in the suit do pay the Collector the stamp duty payable on the plaint and the costs of this application.

We have dealt with this matter under section 622, Civil Procedure Code, as we are of opinion that the District Judge has failed to exercise a jurisdiction vested in him by law in consequence of a misconstruction placed by him on section 412, Civil Procedure Code.

APPELLATE CRIMINAL.

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

QUEEN-EMPRESS

v.

RAMASAMI.*

*Criminal Procedure Code—Act X of 1892, s. 419—Presentation of
criminal appeal.*

A petition of appeal under the Criminal Procedure Code is not duly presented when having been signed by a pleader, it is handed in by a person who is not his clerk and over whose conduct and actions he has no control.

PETITION under Criminal Procedure Code, section 439, praying the High Court to revise the order of A. R. Cumming, Head Assistant Magistrate of Kistna.

The order sought to be revised was an order rejecting certain appeals against the convictions of the appellants by the Second-class Magistrate of Jaggiapet. The Head Assistant Magistrate said:—"This batch of appeals was presented to me at Jaggiapet

(1) Referred Case No. 12 of 1893. (unreported).

* Criminal Revision Cases Nos. 256 to 263 of 1897.

“by some person whose identity is unknown to me. The vakalats are drawn in the name of A.B., who was a certified vakil, and in the name C.D. who is not. The appeals were not presented by the former, and they could not be properly presented by the latter.”

QUEEN-
EMPRESS
v.
RAMASWAMI.

Narayana Ayyangar for the petitioners.

The Public Prosecutor (*Mr. E. B. Powell*) for the Crown.

JUDGMENT.—The cases decided by this Court do not go further than to hold that, if an authorized pleader present an appeal by the hand of his clerk, the presentation should be accepted as if made by the pleader himself. It has nowhere been held that a pleader may present an appeal by a person who is not his clerk and over whose conduct and actions he has no control.

We cannot therefore say that the Head Assistant Magistrate was wrong in rejecting these appeals.

APPELLATE CIVIL.

Before Mr. Justice Shephard and Mr. Justice Subramania Ayyar.

RASIBI AMMAL (PLAINTIFF)

v.

OLAGA PADAYAOHI (DEFENDANT).*

1897.
November
26.

*Village Courts Act (Madras)—Act I of 1889—Succession Certificate Act—
Act VII of 1889.*

The provisions of the Succession Certificate Act apply to suits in a Village Munsif's Court.

CASE stated under section 19 (3), Act VII of 1889, by W. J. Tate, District Judge of Salem, in Original Suit No. 15 of 1897, on the file of the Village Munsif of Puthrakoundanpaliam, Atur taluk.

The case was stated as follows:—

The Village Munsif has applied to me for instructions as to how he should proceed in a suit filed in his Court, where the plaintiff, a Hindu widow, sues to recover money due under a document executed to her husband, and the defendant objected that she cannot sue without a succession certificate in respect of the debts

* Referred Case No. 23 of 1897.