

APPELLATE CIVIL.

Before Mr. Justice Boddam and Mr. Justice Bhashyam Ayyangar.

RAJA SIMHADRI APPA ROW (DEFENDANT), PETITIONER
IN ALL CASES,

1902.
August 15.

v.

RAMACHANDRUDU (PLAINTIFF), RESPONDENT IN CIVIL REVISION
PETITION No. 403 OF 1901.*

Civil Procedure Code—Act XIV of 1882, s. 13—Res judicata—Previous suit in Munsif's Court in ordinary jurisdiction—Subsequent suit on Small Cause Court Side.

A decision in a previous suit in a District Munsif's Court in the exercise of its ordinary jurisdiction may operate as *res judicata* in a subsequent suit between the same parties on the small cause side of the Court.

SUIT, in a Court of Small Causes for Rs. 12-6-0, being the amount paid by plaintiff under a distraint levied by defendant. The suit (with a number of others of a similar nature) had been filed by a ryot of Ventrpragada village against the minor Zamindar for the refund of money which had been collected from him by distraint by defendant for fasli 1308. Defendant pleaded that a proper pattah had been duly tendered to plaintiff and that the rate of Rs. 6 per acre had been in force for many years, and that that rate had been already recognized by the Appellate Court in a previous suit on the summary side of the Court of the District Munsif of Gudivada and that plaintiff's claim was barred by *res judicata*. Judgments of the High Court were filed in which the rate at which rent could be claimed had been decided, and in which it had been held that a previous adjudication as to the rate of rent was operative as *res judicata* between the parties. These judgments were in suits which had been filed in the District Munsif's Court at Gudivada in the exercise of its ordinary jurisdiction in respect of rent due for fasli 1305. The Munsif pointed out that the High Court's judgment itself laid down that

* Civil Revision Petition No. 403 and other connected petitions of 1901 presented under section 25 of Act of IX of 1887 praying the High Court to revise the judgments and decrees of V. L. Narasimham, District Munsif of Tenali, in Small Cause Suits Nos. 241 to 243, 245 to 247, 249, 248, 251 to 262 and 266 to 270 of 1901 respectively.

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the previous adjudication was binding on the parties in any subsequent litigation in the same Court. That, he said, was not the case here. The present suit could not be tried by the Munsif's Court in the exercise of its ordinary jurisdiction. He found that the pattahs which had been tendered were improper, and gave plaintiff a decree for the amount claimed.

Defendant preferred this civil revision petition.

S. R. Ramasubba Ayyar and *K. N. Ayya Ayyar* for petitioner.

P. S. Sivaswami Ayyar and *C. Venkatasubbaramiah* for respondents.

JUDGMENT.—The decision of the Court of Appeal in Original Suit No. 1 of 1897 on the file of the District Munsif of Gudivada that the rate of rent for the class of lands now in question is Rs. 6 per acre is clearly *res judicata* in favour of the landlord, the defendant in this suit, and the fact that by virtue of section 586, Civil Procedure Code, no second appeal lay to the High Court in that case, does not make such decision inoperative as *res judicata* in the present suit (*Ahmed v. Moidin*(1)). The contention that, as the former suit was a regular suit and the present only a small cause suit, the decision in such former suit cannot operate as *res judicata* in the present suit, because the District Munsif of Gudivada cannot take cognizance on his regular side of this suit which is a small cause suit, is manifestly untenable. Under the Small Cause Courts Act a suit cognizable by a Small Cause Court is not to be instituted and tried by an ordinary Civil Court if, and so long as, within the local limits of its jurisdiction a Small Cause Court is established competent to take cognizance of such small cause suit. But that circumstance does not, within the meaning of section 13 of the Code of Civil Procedure, make the ordinary Civil Court, viz., in this case the Court of the District Munsif of Gudivada on his regular side a Court which is not a Court of jurisdiction competent to try the present suit. The decrees of the lower Court are therefore reversed and the suits dismissed with costs throughout.

There is no ground for revision and the revision petitions are dismissed with costs.

(1) I.L.R., 24 Mad., 444.