

APPELLATE CIVIL.

*Before Sir Ralph S. Benson, Officiating Chief Justice, and
Mr. Justice Krishnaswami Ayyar.*

NARAYANASWAMI NAIDU GARU, RECEIVER OF
NIDADAVOLE ESTATE (PLAINTIFF), APPELLANT,

1909.
November 4.

v.

CHELLAPALLI HANUMANULU (DEFENDANT),
RESPONDENT.*

*Pleader, right of retainer of—Has no right to retain moneys in one cause
for dues in another cause.*

A pleader in India has no right of retainer in moneys realised by him in one cause for his dues in other causes conducted by him.

SECOND APPEAL against the decree of J. W. Hughes, District Judge of Kistna at Masulipatam, in Appeal Suit No. 218 of 1906, presented against the decree of C. Rama Rao, District Munsif of Bezwada, in Original Suit No. 21 of 1905.

The facts of the case are thus stated in the judgment of the lower Appellate Court.

In a suit for the partition of Nidadavole, Repoodi and Medur estates, which was filed in the District Court, Godavari, Mr. D. Jagannadha Rao was appointed as the sole Receiver of the three estates. As such, he used to give the defendant, who is a pleader, work in connection with the three estates. Defendant was granted a vakalat to execute a decree in Small Cause Suit No. 1163 of 1893 on the file of the Subordinate Court, and, in execution, he recovered Rs. 564 which he adjusted towards his dues. The plaintiff, who is the present Receiver and who was only appointed Receiver of Nidadavole and Repoodi estates, contends that he had no business to do so as the alleged dues were due on account of the Medur estate. The real question for decision in this appeal is whether the defendant can set off what is due to him in one case from one estate against what he has received in another case belonging to a different estate. In other words, can the defendant, who, in execution proceedings, has realised Rs. 500 and odd for Nidadavole estate, adjust that amount to his dues from the Medur estate?

* Second Appeal No. 546 of 1907.

BENSON, C.J.,
 AND
 KRISHNA-
 SWAMI
 AYYAR, J.
 —
 NARAYANA-
 SWAMI
 NAIDU GARU
 v.
 CHELLAPALLI
 HANUMA-
 NULU.

Both the lower Courts held that the defendant had the right of retainer and dismissed plaintiff's suit.

Plaintiff appealed to High Court.

C. R. Tiruvenkatachariar for appellant.

E. V. R. Sarma for respondent.

JUDGMENT.—In the face of the specific instructions contained in exhibits E and F, the defendant had no business to appropriate the amounts realised in execution of the small cause decree towards his dues in other cases conducted by him, even if we are to assume a previous course of practice according to which it was usual to make such appropriations. It is not suggested that these instructions were subsequently cancelled or varied. The cases cited by Mr. Tiruvenkatachariar are good authority for the position that a solicitor has no right of retainer in moneys realised by him in one cause for his dues in other causes conducted by him. See *Boson v. Bolland*(1), *Hall v. Laver*(2), *Mackenzie v. Mackintosh*(3). A pleader in India has no larger rights. Section 217 of the Contract Act does not help the defendant. We must therefore reverse the decrees of the Courts below. The plaintiff will have a decree for Rs. 556-14-4 with interest at 6 per cent. from the 1st June 1903 to this date with further interest at 6 per cent. on the whole sum until realisation not exceeding six months from this date. The plaintiff is entitled to his costs throughout.

APPELLATE CIVIL.

*Before Mr. Justice Sankaran-Nair and Mr. Justice
 Krishnaswami Ayyar.*

SILAMBAN CHETTY (DEFENDANT), APPELLANT,

v.

RAMANADHAN CHETTY (PLAINTIFF), RESPONDENT.*

Limitation Act (Act XV of 1877), s. 12, sched. II, art. 152—Party applying for portions of the record, entitled to deduct time spent in obtaining them.

Where a party appealing from the decree of a lower Court applies for copies of the judgment and decree at different times, the time which he is entitled to

(1) (1891) 48 R.R., 121.

(2) (1842) 66 E.R., 1158. (1 Hare, 571).

(3) (1891) 64 L.T.N.S., 706.

* Second Appeal No. 698 of 1907.