

## APPELLATE CIVIL.

*Before Sir Arnold White, Chief Justice, and Mr. Justice  
Bhashyam Ayyangar.*

1902.  
November 7,  
10.

KOCHAPPA AND ANOTHER (COUNTER-PETITIONERS NOS. 2 AND 3),  
APPELLANTS,

*v.*

SACHI DEVI AND ANOTHER (PETITIONERS), RESPONDENTS.\*

*Civil Procedure Code—Act XIV of 1882, s. 493—Disobedience to injunction  
issued by District Court—Powers of District Court—Contempt of Court—  
Court of Record.*

A District Court is not a Court of Record, and, as such, has no inherent power to commit for contempt. The jurisdiction which a District Court has to commit in case of disobedience to an injunction is conferred by section 493 of the Code of Civil Procedure, but the powers conferred by that section are only exercisable when the Court is set in motion by a party who deems himself aggrieved.

COMMITTAL by District Court for disobedience of injunction. The facts are sufficiently set out in the judgment of the High Court. The District Judge directed each of the appellants to be imprisoned for three months.

This appeal was accordingly preferred.

Mr. C. Krishnan for appellants.

K. Narayana Rau for respondents.

JUDGMENT.—The plaintiffs obtained a temporary injunction restraining the defendants from cutting certain crops. It is found that the defendants, in breach of the terms of the injunction, and after service upon them of the order, cut the crops. The District Judge, *suo motu*, and without any application by the plaintiffs, issued notice to the defendants to show cause why they should not be committed, and afterwards, also without any application by the plaintiffs, although they took part in the enquiry which led to the commitment, made an order committing the defendants to prison for three months for contempt. In making this order he purported to act as a Court of Record and to exercise a power

\* Appeal against order No. 82 of 1902, presented against the order of J. W. F. Dumergue, District Judge of South Canara, passed in the proceedings of that Court, dated 18th July 1902, in the matter of Miscellaneous Petition No. 23 of 1902 (Appeal Suit No. 5 of 1902).

inherent in the District Court as a Court of Record. A Court which is not a Court of Record has no inherent power to commit for contempt. A District Court is not a Court of Record. The jurisdiction of a District Court to commit in this matter is conferred by section 493 of the Code of Civil Procedure. Under this section the Court may, in case of disobedience, enforce an injunction by attachment of property or by imprisonment of the party disobeying. It is clear that the powers conferred by this section are only exercisable when the Court is set in motion by a party who deems himself aggrieved.

KOCHAPPA  
v.  
SACHU DEVI.

The object of paragraph 3 of the section is to provide a mode of enforcing an injunction. It is not to be assumed that the use of the word 'disobedience' in the paragraph entitles the Court to treat a breach of the terms of an injunction as an offence, and to punish such offence of its own motion.

The appeal is allowed with costs and the order of commitment is set aside.

---

## APPELLATE CIVIL.

*Before Mr. Justice Subrahmaniam Ayyar and Mr. Justice Benson.*

SABAPATHY CHETTIY (PLAINTIFF), APPELLANT,

v.

RENGAPPA NAICKAN (SECOND DEFENDANT), RESPONDENT.\*

1902.  
November 7.

*Revenue Recovery Act—II of 1864—Person aggrieved by sale—Date of cause of action—Confirmation of sale and not sale proceedings.*

Until a sale, held under the provisions of the Revenue Recovery Act, is confirmed, the rights of persons whose interests may be affected by the sale cannot be injured so as to give them a right of action as aggrieved persons, within the meaning of section 59 of the Act. Such a cause of action arises only when the sale has been confirmed.

*Venkata v. Chengadu, &c.*, (I.L.R., 12 Mad., 168), distinguished.

SUIT to recover possession of land by cancelling a revenue sale on the ground of material irregularity. The sale had been held on 19th August 1898, and the suit was brought on 17th January

---

\* Second Appeal No. 891 of 1901, presented against the decree of H. Moberly, District Judge of Madura, in Appeal Suit No. 309 of 1900, presented against the decree of V. Swaminatha Ayyar, District Munsif of Tirumangalam, in Original Suit No. 31 of 1900.