

in the Indian Penal Code are also made punishable; and that the penal provisions of the Estates Land Act leave the provisions of the Indian Penal Code intact. I am of opinion, therefore, that this case must be dismissed.

Re
SIVANU-
PANDIA
THEVAN.
TRABJI, J.

APPELLATE CIVIL.

Before Mr. Justice Ayling.

V. SESHAGIRI ROW AND OTHERS (DEPENDANTS), PETITIONERS,

v.

1914.
April 18,
17 and 20.

G. NARAYANASWAMI NAIDU, RECEIVER, MEDUR
ESTATE OF ELLORE (PLAINTIFF), RESPONDENT.*

Jurisdiction—The Suits Valuation Act (VII of 1887), sec. 8—Suit to eject a tenant holding over—Court Fees Act (VII of 1870), sec. 7, cl. (xi) (cc)—Madras Civil Courts Act (III of 1873), sec. 14.

The effect of amendment of section 7 of the Court Fees Act (VII of 1870) by adding to it clause (xi) (cc) is that a suit to recover immovable property from a tenant is governed for purposes of jurisdiction by section 8 of the Suits Valuation Act (VII of 1887) and not by section 14 of the Madras Civil Courts Act (III of 1873); so that in the case of such suits the valuation for purposes of jurisdiction is the same as for Court-fees.

Chalasawmy Ramiah v. Chalasawmy Ramaswami (1891) 11 M.L.J., 155, distinguished.

PETITIONS under section 115 of the Code of Civil Procedure (Act V of 1908), praying the High Court to revise the order of F. A. COLERIDGE, the acting District Judge of Masulipatam, in Miscellaneous Appeals Nos. 6 and 7 of 1912, preferred against the order of V. C. MASCARENHAS, the Subordinate Judge of Ellore, in Original Suits Nos. 18 and 19 of 1911, respectively.

These are two suits by a zamindar to recover his private lands from his tenants who were holding over after the expiry of the period of their one year's lease. Each suit was valued for purposes of jurisdiction at more than Rs. 2,500 made up of the market value of the lands and one year's mesne profits, and for purposes of court fees valued at less than Rs. 2,500 made up of one year's rental as per section 7, clause (xi) (cc) of the Court Fees

* Civil Revision Petitions Nos. 312 and 313 of 1913.

SESHAGIRI
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NAIDU.

Act (VII of 1870) and one year's mesne profits. Both the suits were filed in the Subordinate Judge's Court of Ellore who returned them for presentation to the Munsif's Court holding that for purposes of jurisdiction the suits were governed by section 8 of the Suits Valuation Act and that the valuation for both purposes was the same.

On appeal the District Judge holding otherwise reversed the order of the Subordinate Judge and remanded the suits for trial by the Sub-Court. Thereupon the defendant preferred these revision petitions to the High Court.

The Honourable Mr. *B. N. Sarma* for the petitioners.

P. Nagabhusanam for the respondent.

AYLING, J.

AYLING, J.—The only question for disposal is as to the correct valuation of the suit for purposes of jurisdiction. The District Judge has held that it is governed by section 14 of the Madras Civil Courts Act: for the petitioner it is argued that the Subordinate Judge was right in applying section 8 of the Suits Valuation Act (VII of 1887).

The ruling relied on by the District Judge [*Chalasawmy Ramiah v. Chalasawmy Ramaswami*(1)] does not in my opinion afford any support for his view that the present suit is one of which the subject-matter is land so as to bring it within the scope of section 14 of the Madras Civil Courts Act (III of 1873) and that this section governs the valuation for purposes of jurisdiction. At the time when the latter Act was passed, the wording and arrangement of section 7 of the Court Fees Act was such that it was at any rate open to argument that a suit of this kind brought by a landlord to evict a tenant was for the possession of land and fell under clause (v). If so it was probably meant to be covered by section 14 of Act III of 1873. Assuming that this was so and that a suit like the present one fell under clause (v) of section 7 as that section originally stood, the enactment of Act VII of 1887 made no difference, for such a suit would be excluded from section 8 of the same. But a very important change was effected by Act VI of 1905. This Act amended the Court Fees Act by introducing in clause (xi) of section 7 a new category of suit “(cc) for the recovery of immoveable property from a tenant.”

(1) (1891) 11 M.L.J., 155.

The present suit undoubtedly falls under this category, and although respondent's vakil may be right in contending that, before the amending Act, it fell under clause (v), the effect of the amendment was clearly to take it out of clause (v) (if it were ever there) and put it into clause (xi) (cc). The indirect effect of the amendment would then be to enlarge the scope of section 8 of Act VII of 1887 which applies to all suits other than those referred to in section 7, clauses (v), (vi), (ix) and (x) (d) of the Court Fees Act. It certainly cannot be contended now that this suit is not covered by section 8 of the Suits Valuation Act. Whether this effect was intentional or due to inadvertence may be a matter of speculation but is of no importance. The Acts must be construed as they stand.

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NAIDU.

AYLING, J.

Adopting the most favourable view for respondent, viz., that section 14 of the Madras Civil Courts Act at the time of its enactment was intended to cover a case of this kind, in the event of conflict, I think preference must be given to section 8 of the Suits Valuation Act as the later enactment. Section 14 of the Madras Civil Courts Act is referred to in the Suits Valuation Act; but I find nothing to indicate that section 8 should be read subject to its provisions.

I must therefore set aside the order of the District Judge and restore that of the Subordinate Judge. The petitioner will get his costs in this and the District Court from the respondent.

APPELLATE CRIMINAL.

Before Mr. Justice Ayling and Mr. Justice Seshagiri Ayyar.

VENKATARAMA AIYAR AND TWO OTHERS (ACCUSED), PETITIONERS,
v.

SAMINATHA AIYAR (COMPLAINANT), RESPONDENT.*

1914.
April 28
and 29 and
May 1.

Criminal Procedure Code (Act V of 1898), sec. 15.—Bench of Magistrates—Judgment and conviction by only some, legality of.

The hearing of a case of assault was commenced by six members of a Bench of Magistrates whose legal quorum was only two. On adjourned hearings of

* Criminal Revision Case No. 780 of 1913 (Criminal) Revision Petition No. 831 of 1913).