

VYBAVAN
CHETTY
v.

SRIMATH
DEIVA-
SIKAMANI
NATARAJA
DESIKAR.

—
SRSHAGIBI
ATTYAB, J.

Krishnaswami Pillai(1) and *Ramdhari Singh v. Permanund Singh*(2). It is not necessary to say now whether these cases have been rightly decided. I see no reason for extending the exception to suits between a lessor and a lessee.

Regarding the memorandum of objections, we think that the defendant is only entitled to simple interest at 9 per cent, but not to compound interest. The plaintiff is entitled to interest at 6 per cent on the arrears of rent due to him from the dates on which they fell due. We are also of opinion that the defendant is not entitled to interest on the sum of Rs. 5,130 found in the previous litigation to be binding on the mutt, prior to the death of Thandavaroya Desikar. The decree must be modified by awarding interest only from fasli 1312. These conclusions are applicable to Second Appeal No. 1873 of 1913. Subject to this modification, the Second Appeal is dismissed. Parties will pay and receive proportionate costs in the memorandum of objections to the two appeals and in the Second Appeal.

S.V.

APPELLATE CRIMINAL.

Before Mr. Justice Ayling and Mr. Justice Phillips.

*Re G. G. JEREMIAH (PETITIONER—ACCUSED), APPELLANT.**

European British subject—Summary trial outside British India by Justice of Peace—Jurisdiction—Criminal Procedure Code (Act V of 1898), sec. 530.

The orders of the Governor-General in Council regulating the powers of the Justice of Peace beyond the limits of British India confer no power on a District Magistrate to try offenders summarily under section 260 of the Code of Criminal Procedure (Act V of 1898).

APPEAL against the order of A. R. Cox, the District Magistrate and Justice of the Peace of the Civil and Military Station of Bangalore, in Calendar Case No. 5 J.P. and petition under sections 435 and 439 of the Code of Criminal Procedure (Act V of 1898), praying the High Court to revise the order of the said Magistrate in the said case.

(1) (1916) 28 M.L.J., 285.

(2) (1913) 19 C.W.N., 1183.

* Criminal Appeal No. 487 of 1915 (Criminal Revision Petition No. 409 of 1915),

1915.
October
25 and 27.
29 M.L.J. 758

The facts of the case appear from the judgment.

Re JEREMIAH.

Hon. Mr. L. A. Govindaraghava Ayyar for the appellant (accused).

The Acting Public Prosecutor for the Crown.

The following judgment of the Court was delivered by

AYLING J.—Appellant, a European British subject, has been convicted by the District Magistrate of Bangalore, who is a Justice of the Peace, of an offence under section 8 of the Municipal by-law after a summary trial under section 260 of the Code of Criminal Procedure.

AYLING AND
PHILLIPS, JJ.

Mr. Govindaraghava Ayyar argues in his behalf that the Magistrate's proceedings are void under section 530 of the Code of Criminal Procedure inasmuch as the District Magistrate is not empowered to try a European British subject summarily. This appears to be so.

The Criminal Procedure Code does not apply primarily to Bangalore, which is no part of British India, and is only in force there by virtue of declarations of the Governor-General in Council in the exercise of powers conferred by the Indian (Foreign Jurisdiction) Order in Council, 1902. The latest declaration is No. 732-D, dated 19th March 1913, but this provides with reference to the Code of Criminal Procedure. "Nothing in the Code as applied shall be deemed to apply to proceedings against European British subjects or persons charged jointly with European British subjects."

The effect of this is to refer us back to an earlier declaration under the same authority, No. 680 I.B., dated 19th March 1912, which is still in force, and which regulates the powers of Justice of the Peace beyond the limits of British India in regard to European British subjects. This notification [issued subsequent to the decision of this Court in *The Public Prosecutor, Bangalore v. Merchant*(1), confers on such officers certain specified powers among which the power of trying offenders summarily under section 260 of the Code of Criminal Procedure is not included and we must take it that the powers of the District Magistrate as Justice of the Peace as regards European British subjects are confined to those conferred on him thereunder.

Re JEREMIAH.

It follows that the trial of the appellant was void.

AYLING AND
PHILLIPS, JJ.

We set aside the conviction and direct the refund of the fine if paid. In view of the pettiness of the case, we do not order a retrial under the ordinary procedure.

S.V.

APPELLATE CIVIL.

*Before Sir John Wallis, Kt., Chief Justice, and Mr. Justice
Seshagiri Ayyar.*

RAJA PARTHASARADHI APPA RAO SAVAI ASWA
RAO BAHADUR, ZAMINDAR OF SANIVARAPPIET,
AND FIVE OTHERS (DEFENDANTS), APPELLANTS,

v.

RAJA BOMMADEVARA SATYANARAYANA
VARAPRASADHA RAO NAIDU BAHADUR, ZAMINDAR
OF SOUTH VALLUR, MINOR BY THE MANAGER
UNDER THE COURT OF WARDS (PLAINTIFF),

RESPONDENT.*

Madras Estates Land Act (I of 1908), sec. 6, sub-sec. (6) and sec. 8—Government lands under ryotwari tenure, purchased by zamindar—Release of revenue on such lands—Zamindari lands, acquired by Government under Land Acquisition Act (I of 1894)—Compensation—Substitution of ryotwari lands as zamindari lands—Suit to eject—Jurisdiction of Civil Courts—Acquisition by landholder of occupancy right—Acquisition by tenant of landholder's right, difference between.

Where a zamindar who had purchased some ryotwari lands from a Government ryot and obtained a release of revenue due on such lands in lieu of compensation payable to him for some other lands taken up by the Government under the Land Acquisition Act (I of 1894), brought a suit in 1911 in the District Court to recover such lands from a tenant who was in possession thereof since 1901, and the defendant contended that he had acquired occupancy right thereto and that the Civil Courts had no jurisdiction to entertain the suit,

Held:

(1) that, assuming that the suit lands were substituted as part of the zamindari, the plaintiff, who was a Government ryot of such lands prior to the substitution, had occupancy right therein and did not lose such right by becoming interested in them as a landholder, under the explanation to sub-section (6) of section 6 of the Madras Estates Land Act;

(2) that the provisions of section 8 (1) of the Act refer to the acquisition of occupancy right by landholders and not to the acquisition of landholders' right by ryots; and