

PARVATHI
AMMAL
v.
GOVINDASAMI
PILLAI.

Judge was right in holding that the suit is not obnoxious to the execution provisions of the Code of Civil Procedure. We dismiss Second Appeal No. 1127 of 1914 with costs.

SPENCER AND
SESHAGIRI
ATTYAR, JJ.

We are, however, unable to agree with the lower Appellate Court that the purchaser has lost his right to interest by any laches on his part. He is under no duty to see that the property is put up for sale in separate lots. He is not affected by any anterior mismanagement in the conduct of the sale. He has to take the property as advertised and sold. As he paid the money required by law, there is no reason for depriving him of the interest on his money. See *Raghubir Dayal v. The Bank of Upper India, Limited*(1). The rate of interest awarded by the Munsif is correct. We must reverse the decree in Second Appeal No. 1147 of 1914 with costs in this and in the lower Appellate Court, and give a decree for Rs. 306 with interest at 6 per cent from the date that the plaintiff deposited the money into Court.

N.R.

APPELLATE CIVIL.

Before Mr. Justice Ayling and Mr. Justice Tyabji.

M. RAMACHANDRA RAO (PLAINTIFF), APPELLANT,

v.

THE SECRETARY OF STATE FOR INDIA IN COUNCIL.

REPRESENTED BY THE COLLECTOR OF GODAVARI
(DEFENDANT), RESPONDENT.*

Madras Village Courts Act (I of 1889), sec. 24—Order of Deputy Collector debarring one from appearing as vakil for parties in village courts, ultra vires—Specific Relief Act (I of 1877), sec. 42—Suit for declaration of invalidity of order, maintainability of.

Under section 24 of the Madras Village Courts Act (I of 1889), any person holding a vakalatnama from a party may appear and plead in a village Court, and there is no provision in the Act for debarring any one from this privilege. The power of removing, suspending and dismissing village munsifs conferred on

(1) (1883) I.L.R., 5 All., 364.

Second Appeal No. 1635 of 1914.

Divisional officers does not include the power of debarring a person from acting as a vakil for a party in village Courts.

A suit for a declaration that an order debarring one from acting as vakil for another in village courts is void is maintainable though it may not be covered by section 42 of the Specific Relief Act (I of 1877).

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SECOND APPEAL against the decree of A. RAGHUNATHA RAO PANTULU, the Subordinate Judge of Cocanada, in Appeal No. 191 of 1913, preferred against the decree of E. J. S. WHITE, the District Munsif of Cocanada, in Original Suit No. 239 of 1913.

Suit for a declaration under section 42 of the Specific Relief Act (I of 1877) that the proceedings of the Headquarters Deputy Collector, Cocanada, debarring plaintiff from practising as a private vakil in any of the village courts in his jurisdiction and the proceedings of the Collector, Godavari, and the Revenue Board confirming the same are null and void.

The defence was (a) that the plaintiff's conduct in certain cases of alleged forgery of vakalats was found to be suspicious; (b) that plaintiff's conduct towards a village munsif was insolent; (c) that plaintiff was not deemed a proper person to represent clients and was consequently debarred from appearing in the village courts of Cocanada division; and (d) that the Collector was competent to pass the order debarring plaintiff from appearing in village courts, as plaintiff was not a certificated pleader.

The District Munsif allowed the suit but the Subordinate Judge dismissed it.

Hence the Second Appeal by the plaintiff.

T. Ramachandra Rao for the appellant.

K. S. Krishnaswami Ayyangar for the Government Pleader for the Crown.

The following judgment of the Court was delivered by AYLING, J.—We are not satisfied that the suit is covered by section 42 of the Specific Relief Act; but it does not follow that it is not maintainable: vide, *Robert Fisher v. The Secretary of State for India in Council*(1) and *Ramakrishna Patter v. Narayana Patter*(2). We can see no reason for holding that the present suit does not lie.

AYLING AND
TYABJI, JJ.

The order in question is passed by the Deputy Collector in charge of the Cocanada Sub-division and debars plaintiff from

(1) (1899) I.L.R., 22 Mad., 220.

(2) (1914) 27 M.L.J., 834.

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practising in any of the village courts of that division. Under section 24 of the Madras Village Courts Act *any person* holding a vakalatnama from a party may appear and plead in a village court and there is no provision in the Act for debarring any one from this privilege.

Mr. K. S. Krishnaswami Ayyangar who appears for the Government Pleader is unable to support the legality of the order. Whatever general powers of supervision can be inferred from the power of appointment, suspension and removal of village munsifs conferred by sections 7 and 8 of the Madras Village Courts Act it cannot be held to extend to the passing of an order of this description. It is no doubt desirable that bad characters should be prevented from practising in village courts and the Act may need amendment, but as it stands the order is undoubtedly illegal and in our opinion the District Munsif exercised a correct discretion in granting the declaration sued for.

We set aside the decree of the lower Appellate Court and restore that of the District Munsif with costs in this and the lower Appellate Court.

N.B.
