

APPELLATE CIVIL.

Before Sir William Ayling, Officiating Chief Justice, and
Mr. Justice Odgers.

1921,
November
15.

BALARAMA NAIDU AND TWO OTHERS (PLAINTIFFS),
APPELLANTS,

v.

SANGAN NAIDU AND FOUR OTHERS (DEFENDANTS),
RESPONDENTS.*

Court Fees Act (VII of 1870), art. 1, Schedule I—Final decree determining mesne profits under Order XX, rule 12 (2), Civil Procedure Code—Appeal—Court-fee in.

An order determining the amount of mesne profits payable, subsequent to the filing of a suit is a final decree within Order XX, rule 12 (2), Civil Procedure Code; and *ad valorem* Court-fee is chargeable under article 1 of Schedule I of the Court Fees Act calculated on the amount of mesne profits in dispute in Appeal.

CASE stated under section 5 of the Court Fees Act by the District Judge of Vizagapatam in Appeal Suit Nos. 107 and 108 of 1919 on his file (Execution Application No. 450 of 1919) in Original Suit No. 743 of 1914, on the file of the Court of the District Munsif, Pārvatipuram.

The appellants filed a suit against the respondent for partition of joint family properties. A decree was passed determining the shares of both the parties. By a subsequent order the Court of First Instance (District Munsif) determined the amount of mesne profits subsequent to the suit at Rs. 500 as payable by the defendant to the plaintiff. Both parties appealed against this decision to the District Court and each paid only As. 8 as Court-fee for his Appeal. The District Judge being of opinion that the Appeal was from a final decree passed under Order

* Referred Case No. 7 of 1920.

XX, rule 12 (2), Civil Procedure Code, and that the Court-fee payable was *ad valorem* on the amount in dispute in each Appeal, according to article 1, Schedule I, Court Fees Act, referred the question of Court-fees for the opinion of the High Court.

C. Madhavan Nayar for Government.

The parties were not represented.

The Court delivered the following JUDGMENT :

These appeals must be treated as appeals against a final decree under Order XX, rule 12 (2), of the Code of Civil Procedure and an *ad valorem* Court-fee must be charged under article 1 of Schedule I of the Court Fees Act calculated on the amount of mesne profits in dispute.

N.R.

APPELLATE CIVIL.

Before Mr. Justice Spencer and Mr. Justice Kumaraswami Sastri.

TADIBULLI TAMMIREDDI AND ANOTHER (DEFENDANTS NOS. 1 AND 2), APPELLANTS,

1921,
November
30.

v.

TADIBULLI GANGIREDDI (PLAINTIFF), RESPONDENT.*

Hindu Law—Partition—Manager—Liability to account—New trade or business—Power of manager to commence new trade—Adult coparcener—Duty of manager to consult adult coparcener—Speculative business—Illegal business, carried on by manager—Loss—Liability of other coparceners—Charity—Dedication of property—Document, whether necessary.

The manager of a joint Hindu family has no power to commence a new trade or business without the concurrence of the

* Appeal No. 254 of 1920.