

been passed by the lower Court in the circumstances. In fact, it was not disputed before us that the matter should be viewed in this light, and it is clear that the present civil miscellaneous appeal is competent; see *Selvarayan Samson v. Amalorpavanadham*(1).

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IYER
v.
SUBBARAMA
IYER.

REILLY J.—I agree.

A.S.V.

APPELLATE CIVIL.

Before Mr. Justice Reilly and Mr. Justice Anantakrishna Ayyar.

P. O. KARTHIRUMA GOUNDAN (FIRST RESPONDENT),
PETITIONER,

1922,
March 2.

v.

RANGAMMAL AND ANOTHER (PETITIONER AND THIRD
RESPONDENT), RESPONDENTS.*

Indian Succession Act (XXXIX of 1925), sec. 192—Petition presented under—Jurisdiction of Subordinate Judge to deal with—Madras Civil Courts Act (III of 1873), sec. 29—General notification of High Court issued under—Subordinate Judge empowered to deal with matters under Indian Succession Act by—Sec. 29 (1) of Madras Civil Courts Act—Effect of.

A Subordinate Judge empowered to deal with matters under the Indian Succession Act by a general notification of the High Court issued under section 29 of the Madras Civil Courts Act has jurisdiction to deal with a petition presented to him under section 192 of the Indian Succession Act.

Section 29 (1) of the Madras Civil Courts Act extends not only to proceedings under Part IX of the Indian Succession Act but to proceedings under any part of that Act other than those of which a District Delegate can dispose. The words "which cannot be disposed of by District Delegates" do not

(1) (1927) 55 M.L.J. 262.

* Civil Revision Petition No. 1033 of 1931.

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limit the proceedings with which a Subordinate Judge can be authorized to deal to those comparatively few matters which may have been brought before a District Delegate but of which under section 286 or 287 or 288 of the Indian Succession Act he finds himself for some reason unable to dispose.

PETITION under section 115 of Code of Civil Procedure (Act V of 1908) and section 107 of the Government of India Act praying the High Court to revise the order, dated the 6th July 1931, of the Court of the Subordinate Judge of Coimbatore in Original Petition No. 46 of 1929.

T. M. Krishnaswami Ayyar and *K. V. Ramachandra Ayyar* for petitioner.

A. C. Sampath Ayyangar for respondents.

The JUDGMENT of the Court was delivered by

REILLY J. REILLY J.—The petitioners object to the Subordinate Judge dealing with a petition presented to him under section 192 of the Indian Succession Act and contend that he has no jurisdiction to do so. The Subordinate Judge has been empowered to deal with matters under that Act by a general notification of the High Court issued under section 29 of the Madras Civil Courts Act. It is not disputed that the Subordinate Judge has so been invested with all the powers with which he could be invested under that section. But it is contended that properly interpreted that section makes it possible to authorize Subordinate Judges only to deal with matters which come before a District Delegate under Part IX of the Succession Act but of which he cannot dispose. The words of section 29 (1) of the Madras Civil Courts Act are :

“The High Court may by general or special order authorize any Subordinate Judge to take cognizance of, or any District Judge to transfer to any Subordinate Judge under his control, any proceedings under the Indian Succession Act which cannot be disposed of by District Delegates.”

Grammatically that provision extends not only to proceedings under Part IX of the Indian Succession Act but to proceedings under any part of that Act other than those of which a District Delegate can dispose. The use of the words "which cannot be disposed of by District Delegates" is perhaps not very happy. But they do not appear to justify the contention for the petitioner that they limit the proceedings with which a Subordinate Judge can be authorized to deal to those comparatively few matters which may have been brought before a District Delegate but of which under section 286 or 287 or 288 of the Indian Succession Act he finds himself for some reason unable to dispose. If that had been the intention, the words used would be a very clumsy way of expressing it, and the proceedings would naturally have been described as "any proceedings under Part IX of the Indian Succession Act", with which alone District Delegates are concerned, instead of in more general terms. And to introduce the new section 29 of the Madras Civil Courts Act by special enactment, as was done by Act XIV of 1926, for such a limited purpose would be surprising. It may be noticed that in several other parts of India, e.g. Bengal, Bombay and the Punjab, legislation had already made it possible to empower Subordinate Judges to deal with a much larger class of testamentary matters. If the words of section 29 of the Madras Civil Courts Act are interpreted in their plain, grammatical meaning, the result is that they make it possible to extend the powers of Subordinate Judges over the whole field of the Indian Succession Act to the relief of District Judges except over the narrow field already covered by the powers of District Delegates, in respect of which District Judges require no further relief. The grammatical meaning of section 29 of the Madras Civil

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Courts Act fits in therefore with what is the apparent object of its enactment.

We are therefore of opinion that the Subordinate Judge has jurisdiction in this matter. This petition is dismissed with costs.

A.S.V.

APPELLATE CIVIL.

Before Mr. Justice Curgenvven.

1931,
November 17.

PERVELA RAMAKRISHNIAH (PETITIONER), PETITIONER,

v.

PANDIRI SATYANANDAM AND THREE OTHERS
(RESPONDENTS), RESPONDENTS.*

*Code of Civil Procedure (Act V of 1908), O. XI, r. 15—
Inspection—Right of party to—Inability on his part to
particularise in his allegations—Effect.*

The plaintiffs, commission agents for the sale of timber despatched to them by the defendants, sued for the recovery of the balance due to them on accounts, being the excess of advances made over the value of timber received, alleging a settlement of account prior to suit followed by further dealings. The defendants pleaded, *inter alia*, that the alleged settlement based admittedly wholly upon plaintiffs' accounts, even if definite, was vitiated by fraud and that they were therefore entitled to re-open the same; and, in order to obtain material upon an issue framed upon that point, they applied for permission to inspect the plaintiffs' accounts relating to the pre-settlement period.

Held that the defendants were not disentitled to inspection upon the sole ground that their allegations of fraud and misconduct against the plaintiffs were couched in general terms and that they had adduced no specific instances.

* Civil Revision Petitions Nos. 777, 778, 915 and 916 of 1931.