

under section 18 of the Land Acquisition Act and the appeal was taken to the High Court under section 54, as it then stood and was understood, with the result that it ended in a decree made by the High Court within the meaning of the Code of Civil Procedure, 1882; and, independently of the contention advanced on behalf of the Board on the authority of the decision of the Privy Council in *Secretary of State for India in Council v. Hindusthan Co-operative Insurance Society, Limited*(1) as to the effect of the language of section 84, clause 2, of the Madras Hindu Religious Endowments Act, the answer to the question referred to the Full Bench should be in the negative.

RAJAGOPALA
CHETTIAR
v.
H.R.E. BOARD,
MADRAS.
—
LAKSHMANA
RAO J.

G.R.

APPELLATE CIVIL.

*Before Mr. Justice Sundaram Chetti and Mr. Justice
Pakenham Walsh.*

SRINIVASA AYYAR *alias* SRINIVASA AYYANGAR
(PETITIONER), APPELLANT,

1933,
November 15.

v.

THE BOARD OF COMMISSIONERS FOR THE HINDU
RELIGIOUS ENDOWMENTS, MADRAS, AND TWO OTHERS
(RESPONDENTS), RESPONDENTS.*

*Madras Hindu Religious Endowments Act (II of 1927), sec. 84
— Application under—Dismissal for default of—Refusal
to set aside—Order of—Appeal from, if lies.*

An appeal does not lie against an order refusing to set aside the dismissal for default of an application under section 84 of the Madras Hindu Religious Endowments Act (II of 1927).

(1) (1931) I.L.R. 59 Calc. 55 (P.C.).

* Appeal against Order No. 237 of 1933.

SRINIVASA
 AYYAR
 v.
 H.R.E. BOARD,
 MADRAS.

APPEAL against the order of the District Court of West Tanjore dated 4th March 1933 and made in Interlocutory Application No. 519 of 1932 in Original Petition No. 57 of 1931.

Advocate-General (Sir A. Krishnaswami Ayyar), K. S. Desikan and K. G. Srinivasa Ayyar for appellant.

K. Subba Rao for Government Pleader (P. Venkataramana Rao) and N. Muthuswami Ayyar for respondents.

SUNDARAM
 CHETTI J.

The JUDGMENT of the Court was delivered by SUNDARAM CHETTI J.—A decision by the District Judge under section 84 (2) of the Madras Hindu Religious Endowments Act (II of 1927) has been held to be not appealable under a recent Full Bench decision of our High Court in *Rajagopala Chettiar v. H.R.E. Board, Madras*(1). This is an appeal against an order refusing to set aside the dismissal of the application under the aforesaid section 84 for default. According to Order XLIII, rule 1, clause (c), of the Code of Civil Procedure an appeal would lie against such an order only in a case open to appeal.

We therefore hold that the civil miscellaneous appeal is incompetent and dismiss it with costs. (Two sets.)

A.S.V.

(1) (1933) I.L.R. 57 Mad. 271 (F.B.).