

has since died ; we therefore direct the surviving son of the fifth defendant, the seventh defendant and the eighth defendant to be added as respondents. Notice will issue to them immediately and the further hearing of the appeal is adjourned to 30th March 1937.

SWAMINATHA  
ODAYAR  
v.  
GOPALASWAMI  
ODAYAR.

G.R.

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## APPELLATE CIVIL.

*Before Mr. Justice Venkataramana Rao.*

KUPPU GOVINDA CHETTIAR (PLAINTIFF), PETITIONER,

1937,  
January 29.

v.

UTTUKOTTAI CO-OPERATIVE SOCIETY BY ITS  
LIQUIDATOR (DEFENDANT), RESPONDENT.\*

*Court Fees Act (VII of 1870) as amended by Madras Act (V of 1922), sch. II, art. 17-A (iii)—Co-operative society—Liquidator of—Order of, under sec. 42 (2) (b) of the Co-operative Societies Act (Indian) (II of 1912)—Suit for declaration that such order is null and void—Court-fee payable on.*

The court-fee on a plaint which prays for a declaration that the order of a liquidator of a co-operative society determining the amount of contribution payable by the plaintiff under section 42 (2) (b) of the Co-operative Societies Act is null and void has to be calculated under article 17-A (iii) of Schedule II to the Court Fees Act (VII of 1870) as amended by Madras Act (V of 1922).

PETITIONS under sections 115 of the Code of Civil Procedure (Act V of 1908) and 107 of the Government of India Act, praying the High Court to revise the orders of the District Court of Chingleput in Original Suits Nos. 1 and 12 of 1935 respectively.

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\* Civil Revision Petitions Nos. 692 and 693 of 1936.

GOVINDA  
CHETTIAR  
v.  
UTTUKOTTAI  
CO-OPERATIVE  
SOCIETY.

*V. Ramaswami Ayyar* with *V. Seshadri* and  
*N. G. Krishna Ayyangar* for petitioner.

*K. S. Champakesa Ayyangar* for Government  
Pleader (*K. S. Krishnaswami Ayyangar*) on behalf  
of the Crown.

Respondent was unrepresented.

*Cur. adv. vult.*

### JUDGMENT.

The question raised in this revision petition relates to the amount of the court-fee leviable on a plaint which prays for a declaration that an order of a liquidator of a co-operative society determining the amount of contribution payable by the plaintiff under section 42 (2) (b) of the Co-operative Societies Act is null and void. The case of the plaintiff was that he ceased to be a member in or about June 1930, that more than two years after he ceased to be a member an order for contribution was made against him on 25th November 1933 directing him to pay a large sum, namely, Rs. 8,000, and that the liquidator had no jurisdiction to pass such an order and he therefore prayed for a decree that such an order was "illegal, void and of no effect and unenforceable against the plaintiff". He paid a court-fee of Rs. 100 under article 17-A (iii) of Schedule II to the Court Fees Act (VII of 1870) as amended by Madras Act (V of 1922). The learned District Judge held that the plaintiff should have valued the claim under section 7 (iv-A) of the said Amending Act. This order of the learned Judge is canvassed as being unsound by Mr. V. Ramaswami Ayyar for the plaintiff. The question is, is the order of the liquidator a decree for money within the meaning

of the said section 7 (iv-A)? The term "decree" therein connotes a final order of a Court, whether civil or revenue, in a suit, and an order passed by an officer or a body which is not a Court but is invested with judicial powers in pursuance of which a liability is fixed on a person to pay a sum of money, will not come within its purview. The Co-operative Societies Act itself draws a distinction between an order and a decree. Section 42 (5) of the Act says that orders made under the said section, when made by a liquidator, shall be enforced by any civil Court in the same manner as a decree of such Court. In construing an analogous provision, section 15 of the Indian Arbitration Act, which provides that an award shall be enforceable as if it were a decree of Court, VISCOUNT CAVE observed thus in *Sassoon & Co. v. Ramdutt Ramkissen Das*(1) :

"Section 15 does not enact that an award when filed is to be deemed a decree of the Court but only that it is to be enforceable as if it were a decree",

and refused to apply the bar of section 47, Civil Procedure Code, to a suit to have an award declared null and void.

Thus, applying the said principle, from the Co-operative Societies Act itself it is abundantly clear that the order of the liquidator under section 42 (2) (b) cannot be a decree for money within the meaning of section 7 (iv-A), not having been passed by any Court in a suit. A subject cannot be taxed unless he comes within the letter of the law and in case of reasonable doubt, a construction most beneficial to the subject is to be

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(1) (1922) I.L.R. 50 Cal. 1, 9 (P.C.).

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adopted. I am therefore of the opinion that section 7 (iv-A) would not apply to the case and that the court-fee paid is proper. I accordingly set aside the order of the learned District Judge and allow the revision petition.

G.R.

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## APPELLATE CIVIL.

*Before Mr. Justice Mockett and Mr. Justice Lakshmana Rao.*

V. RAMANNA SHETTY (RESPONDENT), PETITIONER,

v.

INSPECTOR OF LOCAL BOARDS, MADRAS, AND  
ANOTHER (PETITIONERS), RESPONDENTS.\*

1937,  
January 21.

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*Madras Local Boards Act (XIV of 1920)—Rules with respect to decision of disputes as to validity of elections—R. 10 (b) of—"Election"—"Result of the election"—Distinction—Cl. (ii) of r. 10 (b)—Corrupt practice under—Supplying of petrol to private cars used for election of candidate, if—Corrupt practice—Election of candidate "induced" by—Use of motor bus and cars for a day for taking voters to the poll—Election of candidate, if "induced" by corrupt practice in case of—Validity of his election in case of.*

Rule 10 (b) of the rules with regard to the validity of elections held under the Madras Local Boards Act, 1920, is directed to two totally different circumstances, namely, the election itself and the result of the election. The word "election" is very much wider than the words "the result of the election", and contemplates something more like the conduct of the election as differentiated from the purely isolated fact of the result.

The supplying of petrol to private cars used for the purpose of the election of a candidate comes under the head of a payment or promise of payment to any person whomsoever on account of the conveyance of an elector to or from any place for the purpose of recording his vote as defined in clause (ii) of rule 10

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\* Civil Miscellaneous Petition No. 4729 of 1936.