

From this judgment there was an Appeal to the King in Council, which came on to be heard the 4th of *May*, 1803, when the judgment of the Court of the Recorder was affirmed.

PLEA SIDE.

JOHNSTON v. THE HONORABLE EAST INDIA COMPANY. (1799. *May*.)

An appeal does not lie from an interlocutory order under the Charter of the Court of the Recorder of Madras.

A PETITION was presented, on behalf of the Defendants, praying leave to appeal from an interlocutory order of the Court, which deprived the Company of the benefit of the plea of the statute of limitations, pleaded (with other special matters) after an enlarged rule to plead on the usual terms.

The petition was supported principally by reference to the Bengal Charter, admitting of an appeal from any order, with which a party might be dissatisfied.

RECORDER.—Under the Bengal Charter, it appears that any suitor, being so inclined, may appeal from a rule, or order, whether interlocutory or final, in any way affecting his interest. Such must be taken to have been the intention of His Majesty, the terms “rules or orders” being specified in the Section of the Charter, allowing of appeals generally.

But the same terms do not occur in the section that provides an appeal, in certain cases, and under certain restrictions in the Madras Charter, tho’ the one was copied, in many parts, from the other. Instead of the words “rules or orders,” others are substituted, *viz.*, “judgment or determination,” which import final decision. It is to be presumed, that, if the same latitude had been intended here, the language would have been the same.

It is clear to me that there can be no appeal under the Madras Charter, while the suit is in progress. It must have reached its end; and then, and not before, the party, dissatisfied with the judgment, may object to any order, by which he can shew that he has been finally aggrieved. It is notorious that infinite delay, expense, and vexation, resulted from the liberty that suitors possessed in the Mayor’s Court, of appealing in any stage of a suit; to put an end to this the present Charter was differently worded, it being intended to prevent for the future such an abuse of justice; reserving to parties, if they should have, any final ground of complaint, the means of carrying it to the dernier resort of the King in Council, subject to the limitations imposed, with respect to the amount of the sum in dispute, and the time for petitioning.

Prayer of the Petition refused.

[20] PLEA SIDE.

JOHNSTON v. EAST INDIA COMPANY. (1799. *July 1st*.)

Grain delivered, by the Nabob of the *Carnatic*, in discharge of a war subsidy under a particular treaty, held not to be *revenue* in the hands of Government, so as to be within the restriction of the Charter, excluding that particular subject from the jurisdiction of the Court.