

APPELLATE JURISDICTION. (a)

Referred Case No. 7 of 1863.

RÁMSVÁMI AYYAN *against* APPÁVAIYAN.

When the Court orders further interest under Act XXIII of 1861, Sec. 10, it is to be from the date of the decree to the date of payment of the principal sum adjudged, and not for a limited period.

CASE stated for the decision of the High Court, by R. B. Swinton, Judge of the Small Causes Court at Tanjore. The plaintiff sued on a bond in the following terms:—"Debt-bond executed by Appávaiyan living in Pudukottai to Kumbakonam Rámasvámí Ayyan living in ditto on the 25th October 1859. Having borrowed this day of you Rupees 10 on account of my necessities, I will repay the same together with interest at 1 per cent whenever the demand is made. Thus, I, Appávaiyan executed this debt-bond to Rámasvami Ayyan. Thus I put my signature as Appávaiyan." The judge made the following decree:—

1863.
February 16.
R. C. No. 7.
of 1863.

"Decreed that defendant pay plaintiff Rupees 13 13 4

with costs.	Costs Stamp.....Rs....	1	8	0
	Peon's batta. ,,	...1	8	0
	Pleader's fee. ,,	...5	0	0
			8	0 0 8 0 0
				Total...21 13. 4

with interest thereon at one per cent. per month for thirty days from this date, contingent upon the decision of the High Court," as to whether the judge was authorized under Section 10 of Act XXIII of 1861 to order interest for a fixed period.

That Section enacts that "when the suit is for a sum of money due to the plaintiff, the Court may in the decree order interest at such rate as the Court may think proper to be paid on such principal sum adjudged from the date of the suit to the date of the decree, in addition to any interest adjudged on such principal sum for any period prior to the

(a) Present : Scotland, C. J. and Frere, J.

1863. date of suit ; with further interest on the aggregate sum so
February 16. adjudged, and on the costs of the suit from the date of the
R. C. No. 7 decree to the date of payment.”
of 1863.

No counsel were instructed.

The Court delivered the following

JUDGMENT :—The Judge, we think, was in error in decreeing the payment in this case of interest for the limited period of thirty days from the date of the decree. A discretion is given in Section 19 of Act XXIII of 1861, as to the granting of further interest after the making of the decree ; but when the Court thinks proper to grant such interest, it is to be from the date of the decree to the date of payment. The discretion as regards the time of payment is given in respect of two periods of time—from the date of the suit to the date of the decree, and from the date of the decree to the date of payment ; whereas, under the repealed section (193) of Act VIII of 1859, only one period was provided for, namely from the date of suit to date of payment.

APPELLATE JURISDICTION. (a)

Referred Case No. 9 of 1863.

SUBBIRAMANIYA AYYAN against VELAYUDA DEVAR

In a suit for arrears of rent a Small Causes Court may decide whether the renting has taken place and pass judgment for the amount claimed, without adjudicating on the plaintiff's title.

1863. **I**N this case R. B. Swinton, the Judge of the Small Cause^s
February 16. Court of Tanjore, stated for the decision of the High
R. C. No. 9. Court a question which had arisen in each of the Suits Nos.
of 1862. 645, 646 and 647 of 1862 on the file of his Court.

The facts sufficiently appear from the following judgment which was delivered by

(a) Present : Scotland, C. J. and Frere, J.