

1863.
February 7, 9.
O. S. No. 36
of 1862.

complete ; and as in this case it was delivered to the plaintiff at Madras, and was dated at Madras, I think this Court has jurisdiction and that the plaintiff is entitled to judgment for the amount claimed.

Judgment for the plaintiff for Rupees 513-8-0.

ORIGINAL JURISDICTION.

Original Suit No. 170 of 1855.

COULTRUP and another *against* SMITH.

The judgments of the Judges of the late Supreme Court sitting under Act IX of 1850 (the Small Causes Courts Act) are Judgments of a Court established by Royal Charter, and are therefore not affected by Act XIV of 1859, Sec. 20.

1863.
February 10.
O. S. No. 170
of 1855.

AT the sitting of the Court the following judgment was delivered by.

SCOTLAND, C. J. :—Yesterday in chambers an application was made to me by Mr. Ritchie, of the firm of Ritchie and Shaw, to set aside a writ of execution issued in a case of *Coultrup and another v. Smith* which was tried by the late Supreme Court, sitting under the Small Causes Courts Act (Act IX of 1850). He contended that the matter came within the Limitation Act (Act XIV of 1859), Section 20, because, he said, the Judges of the Supreme Court, when sitting under the Small Causes Courts Act, did not constitute a Court established by Royal Charter. I took time to consider the point, which seems novel, and is of some importance, and am now prepared to dispose of the application.

Looking to the provisions of the Small Causes Courts Act and the Limitation Act, it seems clear that the powers vested in the Judges of the Supreme Court by the former Act were exercised by them as Judges of the Supreme Court. The 11th Section of Act IX of 1850 provides that “any judge or judges of the Supreme Court of Judicature who shall consent to aid in the execution of this Act *may* exercise all the powers of a Judge appointed under this Act, and suits *may* be tried by him sitting in the Supreme Court un-

der this Act in the same manner as if he were a Judge of the Court of Small Causes." And Section 12 of the same Act provides that in such cases the ministerial officers of the Supreme Court shall perform the duties prescribed for the clerk and Bailiffs of the Court of Small Causes. The effect of all this was simply that the Supreme Court Judges *might* exercise the powers conferred by the Act on the Small Cause Court Judges; but that when they did so they exercised such powers as Judges of the Supreme Court. Then the Limitation Act (XIV of 1859), Section 20, provides that "no process of execution shall issue from any Court not established by Royal Charter to enforce any judgment, decree or order, of such Court, unless some proceeding shall have been taken to enforce such judgment, decree or order, or to keep the same in force within three years next preceding the application for such execution." It is perfectly clear, first, that this section applies only to the judgments of Courts *not* established by Royal Charter—and in the present case the judgment is the judgment of a Court which *is* established by Royal Charter—and, secondly, that the words "unless some proceeding shall have been taken to enforce such judgment" refer to the issue of execution from a Court *not* established by Royal Charter. Here the execution has issued from a Court which *is* established by Royal Charter, Section 20 of Act XIV of 1859, accordingly, does not apply, and the judgment-creditor, if otherwise entitled to it, has a perfect right to maintain his execution. The application must be refused.

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O. S. No. 170
of 1855-

Application refused.