

In declaring that the plaintiffs have no right at present to oust the defendants, the Civil Judge has gone beyond the requirements of the case, the plaintiffs not having sought to oust them.

With these observations we dismiss the special appeal with costs.

*Appeal dismissed.*

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NOTE.—See S. A. No. 6 of 1847 Madras Sadr. Dec. 1851, p. 262; S. A. No. 58 of 1857 M. S. D. 1857, p. 145.

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APPELLATE JURISDICTION. (a).

*Criminal Petition No. 40 of 1862.*

THE QUEEN *against* VAIYAPURI GAUNDAM.

A Sessions Judge is bound to allow a prisoner whose conviction he has confirmed to execute a vakalat-nama to appeal.

1862.  
September 3.  
Crim. P. No. 40  
of 1862.

**I**n this case it was alleged that J. W. Cherry, the Sessions Judge of Salem, had refused to allow a prisoner whose conviction he had confirmed, to execute a vakalat-nama to appeal, on the ground that no appeal lay against his decision under section 428 of the Criminal Procedure Code. That section enacts that “except as provided in section 405 of this Act, sentences and orders passed by an Appellate Court upon appeal shall be final.”

*Mayne* for the prisoner.

PER CURIAM :—This was not a point which the Judge could decide. Let him allow the vakalat-nama to be executed and attested. (b)

(a) Present : Strange and Phillips, J. J.

(b) *Ex relatione* Mr. Mayne. The allegation of the refusal turned out to be erroneous.

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