

1867.
April 15.
R. A. No. 8
of 1867.

so indiscreetly exercised as to justify the interference of an Appellate Court? It certainly seems to me a stronger case for that exercise can scarcely be conceived.

There was a repeated refusal to answer a question put by the Court itself after full warning, and that question was one of the most material character.

Finding as I do a distinct provision of the Legislature and facts clearly bringing the case within that provision, I do not feel at liberty to say that some other provision of the law ought previously to have been applied. If that construction were put upon this plain provision, it would be in the power of a plaintiff to prevent a judgment against him, on account of the non-production of a document, by pertinaciously refusing to give any information as to the mode in which a particular contract was concluded. I will only say that I see nothing in the nature of the case to entitle the plaintiff to any favor: and my opinion is that the appeal should be dismissed with costs.

Appeal dismissed.

APPELLATE JURISDICTION (a)

Referred Case No. 11 of 1867.

VENKATARAMANAIYA against KUPPI.

Where in the course of the hearing of an appeal, the appellant desired to withdraw in order to avoid the decision of a question raised by the respondent at the hearing.

Held that, under Section 348 of the Civil Procedure Code, the respondent was entitled to have the question heard and determined.

1867.
May 22.
R. C. No. 11
of 1867.

CASE referred for the opinion of the High Court by Srinivāsa Rāu, Principal Sadr Amin of Mangalore, in Appeal Suit No. 647 of 1865.

No Counsel were instructed.

The Court delivered the following

JUDGMENT:—The facts of this case we understand to be, that the appellant in the course of the hearing of the

(a) Present:—Scotland, C. J., and Collett, J.

appeal desired to withdraw the appeal in order to avoid the decision of a question raised by the respondent on the hearing, as to the appellant's right to recover the amount which has been decreed to him by the Munsif.

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We are of opinion that, by the operation of Section 348 of the Civil Procedure Code, the respondent was entitled to have the question heard and determined just as if it had been a ground of objection in a cross appeal, and that the appellant was not at liberty to withdraw the appeal.

By non-appearance at an adjourned hearing, an appellant might oblige the Court to dismiss the appeal under Section 346, and so prevent a decision on a point raised by a respondent. But in this case the appellant appeared on the hearing, and the Court is bound to determine the rights of the parties on the question raised, after fully considering the evidence and all that is urged on both sides:

APPELLATE JURISDICTION (a)

Regular Appeal No. 9 of 1867.

K. SUBBA CHETTY.....Appellant.
 MASTI IMMADI RANI..... } Respondents.
 NANJAMANYAR and another..... }

The mode of succession in a Poliyem is not such as to render the holder responsible for the debts of his predecessor. There is not a continuance of the previous estate in each successive holder but a fresh estate created by the gift. However, as respects private property left by a deceased Poligar, liability to the extent of the assets taken will attach upon the takers if there was an obligation upon the owner of the property so taken to pay the debt.

THIS was a Regular Appeal from the decision of C. F. Chamier, the Civil Judge of Salem, in Original Suit No. 1 of 1866.

1867.
 June 5.
R. A. No. 9
of 1867.

The suit was for payment of money due on bonds, with interest ; and on account of goods sold and delivered.

The plaintiff alleged that the 1st defendant was appointed guardian and manager of the late Poligar during his minority, and exercised those functions from 1851 to 1864 ; that she found the Poliyem indebted to the amount

(a) Present :—Holloway and Ellis, J.J.