

APPELLATE JURISDICTION (a)

Referred Case No. 19 of 1866.

SHÁNTI LAKSHMINARASAMMA, a minor, through her father-in-law and guardian SHA'NTI CHINNA GANGARAMUTTU, *against* VEPA VENKATRÁMADÁS and others.

A Small Causes Court cannot entertain a suit for the possession of a tree, nor for the annual delivery of the produce so long as the tree should be productive. But a suit for a definite quantity of the produce of a tree, or the value thereof, may be entertained by a Small Causes Court, if the value be within the prescribed limit.

CASE referred for the opinion of the High Court by C. Venkataratnam, the District Munsif of Ráyaveram in the Zillah of Vizagapatam. 1866.
December 13.
R. C. No. 19
of 1866.

No Counsel were instructed.

The Court delivered the following

JUDGMENT :—The District Munsif as Judge of a Small Causes Court, cannot entertain a suit for the possession of a tree, which is certainly immovable property ; nor, we think, for the annual delivery of the produce so long as the tree should be productive, for that would be substantially the same thing and would involve necessarily a decision upon the title to the tree. But a suit for a definite quantity of the produce of a tree, or the value thereof, may be entertained by a Small Causes Court if the value be within the prescribed limit. In the present case, therefore, if the plaintiff's complaint is that the defendant has possession and wrongfully withholds from the plaintiff half the fruit of a jack tree, and all the fruit of a mango tree actually produced last year, or within any period not excluded by the Limitation Act, the value of the whole being Rupees 9, we see no reason why the Small Causes Court should not give him redress by decreeing the produce or its value.

(a) Present : Bittleston, Ag. C. J., and Ellis, J.