

1866.
 April 16.
 R. C. No. 1
 of 1866.

Court (erroneously as we gather from the case) could not warrant the institution of the suit in the District Munsif's Court, the jurisdiction of that Court being expressly excluded by the provisions of Act 42 of 1860, and that the Principal Sadr Amin rightly concluded that the suit ought to be dismissed. The plaintiff must be left to bring his suit in the Court having jurisdiction to decide it.

APPELLATE JURISDICTION (a)

Civil Petition No. 50 of 1866.

MANTHARESWARA AIYAR.....*Petitioner.*

KAMALA NÁIKAR, ZAMINDÁR OF AMMANÁI- } *Counter*
 KANUR..... } *Petitioner.*

Where a bond was registered under Sections 51 and 52 of Act XVI of 1864, and by its terms a mount of interest was to be paid at the end of every month. *Held*, that by virtue of the special registration the obligee was entitled to move for execution in respect of each instalment of interest due.

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 of 1866.

THIS was a petition against an order of R. R. Cotton, the Civil Judge of Madura, dated the 25th November 1865. The proceedings of the Civil Court were as follows :—Read Miscellaneous Petition No. 635 of 1865, presented on the 22nd November 1865, by Vásudeva Sástri, Vakil, on behalf of Manthareswara Aiyar, plaintiff in No. 53 of 1865 on the file of the District Registrar of Madura, under Sections 51 and 52, Act XVI of 1864, and Section 212, Act VIII of 1859, that as the defendant Kamala Náikar, Zamindár of Ammanáikanur, has failed to act up to the terms of the bond dated 9th March 1865, registered under the above said Section 51, the sum of Rupees 300, being the interest due for the 7th and 8th instalments, together with Rupees 0-8-0, being the value of the stamp used for this motion, and Rupees 3-12-0, being the $\frac{1}{4}$ fee due to the Vakil, may be collected from the defendant by issuing a warrant against him.

(a) Present Innes and Collett, J. J.

ORDER :—Rejected : by the terms of the bond if the regulated 12 per cent. interest is not paid, the penalty is an increase to 18 per cent.—the collection by Court's warrant refers merely to the principal.

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Miller, for the petitioner.

Advocate General, for the counter-petitioner.

ORDER :—We are clearly of opinion that the Civil Judge was in error in rejecting the petition. The agreement at the time of registration was that the obligation of the bond should be enforced under Sections 51 and 52 of the Registration Act and one thing to which by the bond the obligor was obliged, was to pay the sum of Rupees 150 at the end of every month; and this sum became at the end of each month, under the terms of the bond, a debt for which the obligee might ordinarily have sued. He was therefore entitled by virtue of the special registration to move for execution in respect to the two sums of Rupees 150, which had become due at the time of his presenting his petition. The order of the Civil Judge is reversed ; the petition must be restored and execution proceeded with in the ordinary course.

Ordered accordingly.

APPELLATE JURISDICTION (a)

Special Appeal No. 46 of 1896.

KRISHNASAMI PILLAI and another.....*Appellants.*

VENKATACHELLA AIYAN and others.....*Respondents.*

A registered deed of sale, though subsequent in date, invalidates as against the registered purchaser a prior deed of sale unregistered, notwithstanding that notice of the prior deed be alleged.

Act XIX of 1843, Section 2, construed.

THIS was a special appeal from the decision of C. N. Pochin, the Acting Civil Judge of Madura, in Regular Appeal No. 243 of 1864, confirming the decree of the Principal Sadr Amin of Madura, in Original Suit No. 69 of 1863.

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of 1866.

O'Sullivan, for the appellants, the plaintiffs.

(a) Present : Holloway and Collett, J. J.