

Chancery Orders authorising service of process out of the jurisdiction :—“ If in consequence of these orders any decree be made against a person out of the jurisdiction, it will be for the Courts of the country in which he may reside to determine whether the decree should be enforced against him.”

1868.
January 6.
O.S. No. 365
of 1869.

Upon the whole, therefore, I come to the conclusion that this Court has jurisdiction to proceed with this suit, and I must refer it to a Judge in Chambers to take an account of the partnership dealings between the plaintiff and the defendants under the contract of partnership in the plaint mentioned. And the further hearing of the suit will stand adjourned until the usual time after the Judge’s certificate has been made.

Appellate Jurisdiction (a)

Civil Miscellaneous Regular Appeal No. 278 of 1868.

OLAGASUNDARAM PILLAY and 28 others...*Petitioners.*

MUTTIEN CHETTY..... *Counter Petitioner.*

By Madras Act VIII of 1865, an appeal from the decree of the Collector lies to the Civil Court. The Civil Judge has no power to refer appeals under the Act to a Principal Sadr Amin for disposal.

The power of a Civil Judge to transfer appeals to a Principal Sadr Amin is confined by clause 3, Section 8 of Act VII of 1843, to appeals from District Munsifs.

THIS was an appeal against an order of J. R. Daniel, the Acting Civil Judge of Madura, dated the 2nd of October 1868.

1869.
January 22.
C. M. H. A.
No. 278
of 1868.

The petitioners were the defendants in a suit before the Deputy Collector of Madura under Madras Act VIII of 1865, who on the 13th of June 1866 passed a decree against the defendants. Petitioners appealed to the Civil Judge, who referred the appeal to the Additional Principal Sadr Amin for disposal. The Principal Sadr Amin by a decree dated the 6th of September 1867 confirmed the decree of the Deputy Collector.

On the 12th of August 1868 the petitioners presented a petition to the Civil Court stating that the decree of the

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Additional Principal Sadr Amin was inoperative, and praying that a decree should be passed on the merits by the Civil Court.

By an order dated the 3rd September, the Civil Judge (G. R. Sharpe) directed that the appeal from the decree of the Deputy Collector be re-posted for hearing. The Civil Judge observed that the appeal was preferred in regular course to the Zillah Court, and there was no provision under which the Zillah Judge could divest himself of the responsibility thereby thrown upon him to decide it.

Upon the case coming on for hearing, the Acting Civil Judge held that it was not competent to him to re-open the case, and pass another judgment in appeal (without entering into the question whether the Civil Judge had authority to refer the appeal to the Additional Principal Sadr Amin for disposal,) inasmuch as he could not reverse the decree of the Principal Sadr Amin.

From this decision the petitioners appealed to the High Court upon the ground that the Acting Civil Judge ought to have heard and determined the appeal.

O'Sullivan, for petitioners.

The Court delivered the following

JUDGMENT:—This was a suit instituted before the Collector under Madras Act VIII of 1865 in which he made a decree. Under Section 69 of that Act, an appeal from that decree was preferred to the Civil Court, and the then Civil Judge referred the appeal for disposal to the Principal Sadr Amin who heard the appeal and made a decree confirming the Collector's decision. Upon petition by the appellant, the succeeding Civil Judge held the transfer of the appeal to the Principal Sadr Amin illegal, and ordered the appeal to be re-posted for hearing in the Civil Court, which was done.

Before the day of hearing, there was another Civil Judge appointed, and he held that the decree of the Principal Sadr Amin was valid, and that he could not re-hear the appeal.

From that order the present appeal is brought.

The Madras Act VIII of 1865 expressly limits the appeal to the Civil Court, and the power vested in a Civil Judge to transfer appeals to a Principal Sadr Amin is given by clause 3, Section 8, Act VII of 1843, and is confined to "any appeals from District Munsifs which may be filed in a Zillah Court."²

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We are therefore of opinion that the decree by the Principal Sadr Amin was made without jurisdiction and is a nullity, and the order now appealed from must be set aside, and the appeal set down for hearing in due course in the Civil Court.

Appellate Jurisdiction. (a)

Criminal Petition No. 247 of 1868.

PANCHANADA TAMBIRAN.....*Petitioner.*

A Criminal Court inflicting a fine for contempt of Court should specifically record its reasons and the facts constituting the contempt, with any statement the offender may make, as well as the finding and sentence.

Where this course was not adopted, the High Court set aside the order inflicting a fine.

THIS was a petition against an order of the Session Judge of Madura, dated 13th October 1868.

1869.
January 22.
C. P. No. 247
of 1868.

The petitioner preferred a charge of criminal trespass under Section 447 of the Indian Penal Code against one Chappani Muthu Pillay. The charge was dismissed by the Assistant Magistrate of Madura, whereupon the petitioner presented a petition to the Court of Session complaining of the dismissal of the charge, and asking the Court of Session to direct the committal of the defendant for trial by that Court under Section 434 of the Code of Criminal Procedure upon a charge of dacoity, and also to ask for the sanction of the High Court to institute criminal proceedings against the Deputy Collector who had investigated a charge preferred by the defendant Chappani Muthu Pillay against the petitioner which was also dismissed, founded upon their irregularity and illegality of the Deputy Collector's proceedings.

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