

1868. as the finding and sentence. It was therefore clearly a trial
November 6. although by a summary mode and on the view of the
C. R. A. No. Judge.
59 of 1868.

It is true that Section 408 specially mentions the two instances of trial with the aid of assessors, and trial by jury, but not so as to exclude the application of the general words "any person convicted on a trial held by a Court of Session," to a trial in another way. A man arraigned, pleading guilty and convicted on his plea, has clearly been convicted on his trial within the meaning of Section 408.

Further, Section 413, which expressly gives an appeal from a conviction for the offence in this case by a Civil Court, shows clearly that the Sections were intended to apply to a conviction by a Criminal Court. Were it otherwise, there would be this anomaly that a conviction by a Judge would be open to appeal when made in the exercise of his Civil but not his Criminal jurisdiction.

The order therefore must be set aside and the fine refunded.

It is accordingly ordered that the sentence of the said Court of Session be, and the same hereby is, reversed ; and that the fine be refunded.

Appellate Jurisdiction (a)

JRegular Appeal Miscellaneous No. 57 of 1868.

Y. VIRABHADRA RAU against M. RAMAIYA *alias* BAB-PAUTULA.

Application for execution of a decree obtained in 1858 under the old law as to limitation was made in January and disposed of in February 1864, and a subsequent application was made in November 1867.

Held, that the first application was in time, but the second application was barred by Section 20, Act XIV of 1859.

1868. **T**HIS was a Regular Appeal against an order of E. B. Foord,
November 13 the Civil Judge of Berhampore, dated 15th November
R. A. M. No. 1867, rejecting an application for the execution of the
57 of 1868.

(a) Present ; Scotland, C. J. and Collett, J.

decree passed by the late Civil Court of Chicacole in
Original Suit No. 141 of 1850.

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57 of 1868.

Parthasarathi Aiyangar, for the petitioner.

The Court delivered the following

JUDGMENT:—The decree was dated the 23rd October 1853. From that date under the old law the plaintiff had twelve years within which to execute the decree. In January 1864 he took proceedings to enforce execution. Under Section 21 of the new law, he had then as much of the twelve years as remained unexpired, not exceeding three years from 1st January 1862. The application in January 1864 was therefore in time, but the subsequent application in November 1867, being more than three years after that in January 1864, and nothing having been done between the 29th of February 1864 and the 11th November 1867 to keep the decree alive, it was barred under Section 20 of the Limitation Act. It has already been decided, though the case has not yet been reported, that an application for a certificate under Act XXVII of 1860 is not a proceeding to keep alive a decree within the meaning of that Section (See Judgment in Civil Miscellaneous Special Appeal 73 of 1868.* The order of the Civil Judge must therefore be confirmed and this appeal dismissed.

Appeal dismissed.

Appellate Jurisdiction (a)

Referred Case No. 32 of 1868.

WUMADAI RAJAH HARAJAI KUMARA VENKATA PERUMAL-
RAJ BABADUR, ZEMINDAR OF KARVATINUGGAR, against
KANNIAPPAH, a Ryot.

A suit for rent is maintainable where a puttah in the form required by Section 4, Act VIII of 1865, (Madras), and such as the defendant was bound to accept has been tendered to the defendant, although no attempt has been made by a summary suit before the Collector to enforce its acceptance.

A District Munsif is a Small Cause Court Judge under Madras Act IV of 1863 within Act XI of 1865.

* THIS was a case referred for the opinion of the High Court by W. Ramasamier, the District Munsif of Sholungur, in Suit No. 315 of 1868.

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of 1868.

* See ante page 89.