

Appellate Jurisdiction. (a)*Referred Case No. 16 of 1870.***ARUNACHELLAM CHETTY** *against* **GANGATHARAM AIYAN.**

A suit was brought in the Small Cause Courts to recover two sums of money; one cause of action being for money lent and the other for goods sold and delivered. The amount of both claims was within the jurisdiction of the Small Cause Court; but the pecuniary claim in each case was cognizable by the District Munsif on the Small Cause Court side.

Held, that the Small Cause Court had jurisdiction to entertain the suit.

THIS was a case referred for the opinion of the High Court by J. R. Daniel, the Acting Judge of the Court of Small Causes at Madura, in Suit No. 280 of 1870. 1870.
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The case was as follows:—

This suit was brought to recover Rupees 52-0-10 on two causes of action, Rupees 23-0-0 a loan on pledge of certain jewels dated 10th February 1867, and Rupees 12-4-0 the value of goods purchased by the defendant on 1st January 1868.

The case came on for hearing on March 1st, 1870, the defendant *ex-parte*; but as I was of opinion that this Court had no jurisdiction to try the suit, I dismissed it, subject to the opinion of the High Court.

Under Section 8, Act VIII of 1859 causes of action by and against the same parties and cognizable by the same Court may be joined in the same suit—the causes of action here are separately cognizable by the Munsif on the Small Cause Court side and not by this Court.

In Referred Case No. 15 of 1869 reported at page 334, Volume 4, *High Court Reports*, it was determined that general claims for rent due under a lease, each of which separately was cognizable by the Munsif might be joined together, and form the basis of a suit in a Small Cause Court; but the reason for the decision was that the several items formed but one cause of action, “the distinction between an agreement consisting of various items which are intended to form one entire demand on the one hand and several distinct and independent claims on the other being clear and undoubted.” In the present case the claims are distinct and

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of 1870. independent, one a loan of money on the pledge of jewels, and the other the sale of goods. I was therefore of opinion that they could not be joined together and brought in this Court.

The question referred for the opinion of the High Court is can this suit be entertained by this Court ?

No counsel were instructed.

The Court delivered the following

JUDGMENT :—We are of opinion that the Court of Small Causes had jurisdiction to hear and determine this suit.

To give the Court jurisdiction as respects the claim in the suit, it is essential that the claim should be of the nature and amount declared to be cognizable by Section 6 of the Small Cause Courts' Act XI of 1865. Then by Section 8 of the Code of Civil Procedure "causes of action by and against the same parties and cognizable by the same Court may be joined in the same suit, provided the entire claim in respect of the amount or value of the property in suit do not exceed the jurisdiction of such Court."

The effect of the latter provision is to put suits for claims founded upon several causes of action on the same footing as suits brought on a single cause of action. If all the causes of action are of a nature cognizable under Section 6 of Act XI of 1865, a suit may be brought in a Court of Small Causes provided the total amount of the claim is within the pecuniary limit of the Court's jurisdiction.

The present suit therefore has been brought in a Court of competent jurisdiction unless the prohibition in Section 6 of Madras Act IV of 1863 applies. That section enacts that "no suit in which a District Munsif is competent to exercise special jurisdiction under Section 3 shall be preferred in any higher Court unless in cases where the defendant is subject to the exclusive special jurisdiction of a Small Cause Court instituted under Act XLII of 1860, or of a Court invested with the powers of a Court of Small Causes under Sections 4 and 5 of this Act."

It is plain that the claim in the present suit is in point of amount one which a District Munsif could not entertain by virtue of the special jurisdiction given by Section 3 of

the Act; and as the causes of action which have given rise to the claim are rightly joined, the entire amount of it is the proper criterion of the Courts's jurisdiction.

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For these reasons we are of opinion that the suit is within the jurisdiction of the Small Cause Court.

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Civil Miscellaneous Petition No. 96 of 1870.

MADAI THALAVOY KUMMARASAMY }
MUDALIYAR and 2 others..... } *Petitioners.*

NALLAKANNU TEVAN and 31 others.. *Counter-Petitioners.*

Certain land-holders applied to the Collector for warrants to be put into possession of lands under Section 41 of Madras Act VIII of 1865. The warrants were issued but certain ryots appealed under Section 43 by presenting ordinary petitions. In disposing of those petitions the Collector referred certain questions to arbitrators named by the parties and then made an order in accordance with the award. The Civil Court heard an appeal from the order.

Held, that the Civil Court had no jurisdiction to hear the appeal.

APPPLICATION under Section 35, Act XXIII of 1861, praying the High Court to set aside the decree of the Civil Court of Tinnevely in Regular Appeal No. 187 of 1868, reversing the decision of the Subordinate Collector of Tinnevely, in Original Suit No. 1 of 1867.

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The petitioners presented petitions to the Collector stating that the counter-petitioners who raised Pisanani crops in the lands of Sivalapperi Puravu and Kammai Puravu, attached to their (petitioners') village of Idaikal, in Fusli 1276, did not pay the Kattuguthagai paddy according to the counterparts of leases given by them, and had allowed it to fall in arrear; that no property was forthcoming for attachment towards the realization of the arrears and that therefore the lands should be recovered from the ryots (the counter-petitioners) under Section 41, Act VIII of 1865.

49 warrants were issued to the Officer of the Police Station at Tenkasi for putting the lands in possession of the petitioner.

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