

1870.
January 26.
R. O. No. 1
of 1870. The only question which the Judge has to consider is whether by law he has jurisdiction under Act XI of 1865 to hear and determine the suit. If he has, it is his duty to do so; and he cannot transfer the case to the District Munsif's Court on any ground of expediency.

Our opinion is not asked whether this suit is within the jurisdiction of the Small Cause Court; nor are the facts so stated as to enable us to conclude positively whether it is so or not; but suits for rent, when there is a contract between the parties, or even when such a puttah has been tendered as the defendant was bound to accept (4, *High Court Reports*, 149, 395,) are maintainable in the Courts of Small Causes; and the mere denial of the plaintiff's title is not sufficient to oust the jurisdiction of the Court. (2, *High Court Reports*, 184.) In the case as stated we do not therefore see any reason for supposing that the Court of Small Causes has no jurisdiction to hear this suit.

Appellate Jurisdiction. (a)

Special Appeal No. 41 of 1869.

KRISTNA REDDI and 3 others.....*Special Appellants.*

SRINIVASA REDDI.....*Special Respondent.*

The Civil Judge in confirming a decision of the District Munsif did not state the reasons upon which his judgment was founded, and the High Court remitted the case in order that the Civil Judge might record a judgment in accordance with the Civil Procedure Code. The Civil Judge had been appointed to another district and when the case went down the new Judge had the case re-argued before him and reversed the decision of the Munsif.

The High Court under the circumstances held that effect should be given to the first judgment notwithstanding the irregularity.

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February 4.
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of 1869. THIS was a special appeal against the decision of W. Hodgson, the Acting Civil Judge of Cuddalore, in Regular Appeal No. 58 of 1867, confirming the Decree of the Court of the District Munsif of Velupuram, in Original Suit No. 995 of 1864.

Handley for the special appellants, the defendants.

The facts sufficiently appear from the following

JUDGMENT :—On the first hearing of the special appeal it appeared that the Civil Judge had confirmed the decree of

(a) Present :—Scotland, C. J., and Innes, J.

the District Munsif without assigning the reasons upon which he founded his judgment further than by saying that he considered the decision of the Munsif fair and equitable. We thought that this was not a substantial compliance with the provisions of the Civil Procedure Code, and that we ought to require the Civil Judge to set out the grounds of his judgment.

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We accordingly send the record to the Lower Appellate Court with directions to this effect. The present Civil Judge, contrary to the intention of the Court in making the order, had the case re-argued and has now returned the record with a judgment recorded at some length reversing the judgment of the District Munsif's Court. In sending the case down we were under the impression that the judgment confirming that of the District Munsif had been delivered by the present Civil Judge, Mr. Hodgson. But it now appears that he merely signed the fair judgment on behalf of the late Civil Judge, Mr. Cadell; and that it was by the signature of Mr. Hodgson being appended to it that we were misled into supposing that the judgment was his.

Had we been aware that the Judge who delivered the judgment had been removed to another district, we should probably have hesitated to make an order directing the transmission of the record to him, and we now learn that he has since reverted to the Revenue branch of the Service and is no longer a Judge under the control of the High Court. In these circumstances the Court is driven to allow the irregularity to pass without further notice and act upon the judgment of the late Civil Judge, Mr. Cadell, though defective, as the judgment of the Lower Appellate Court and, as at the hearing the defect in procedure was the only ground of special appeal seriously insisted on, we must dismiss this special appeal.
