

1870.
January 19.
R. A. No. 116
of 1869.

For these reasons we are of opinion that the decree of the Civil Court must be affirmed with costs.

Appeal dismissed.

Appellate Jurisdiction. (a)

Referred Case No. 1 of 1870.

BODI RAMAYYA *against* PERMA JANAKIRAMUDU and another.

When a District Munsif has jurisdiction to try a Suit as a Small Cause Court Judge, he cannot transfer it to the District Munsif's Court on any ground of expediency.

1870.
January 26.
E. C. No. 1
of 1870.

CASE referred for the opinion of the High Court by V. Seshiah, the District Munsif of Masulipatam, in Suit No. 269 of 1869.

The following was the case stated :—

This is an action for the recovery of the value of the ambarum (landlord's share) of produce of some Inam land amounting to 31 Rs. 4 As. for the Fusly 1279.

This case came on for hearing on the 20th December, and was adjourned till the 24th January for a further hearing.

The facts of the case are as follows :—In 1866 a suit was instituted in this Court by the renter for the recovery of the ambarum (landlord's share) of certain Inam land, wherein the defendant contended that the land in question was a Seri land, and not an Inam, and the Inamdār therefore had been included a supplemental defendant.

The whole case having been gone into was decided by me in 1869 that the land was held as an Inam and not Seri.

While an appeal is still pending in the principal Sadr Amin's Court at that station against the above decision, the present claim has been brought for the produce of the current year.

The defendants now take exception to the disposal of the suit on the Small Cause Side, which will be final notwithstanding the former decision in respect of tenure of land may be reversed by the Appellate Court.

Considering the reasons urged by the defendant's vakīl, I am of opinion that the suit shall not be taken up and

(a) Present: Bittleston and Innes, JJ.

decided on the Small Cause Side, though from the nature of the allegations set forth in the plaint it was originally admitted as a Small Cause Suit.

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As similar objections are often made by the defendants in the disposal of Small Cause Suits, I think an authoritative ruling on the point will obviate any difficulty and delay in the adjudication of such claims.

It is my opinion that a suit filed on the Small Cause Side may be transferred to the ordinary side of the same Court when the Judge thinks it advisable.

I beg to submit the following question for the consideration of the Honorable Judges of the High Court and for their learned opinion on the subject:—

Whether the District Munsif is of his own accord, or on the representation of the parties, competent to transfer a Small Cause Suit to the regular side of the Court, if it appears that the ends of justice will be better met by such transfer.

No counsel were instructed.

The Court delivered the following

JUDGMENT:—The question put to us is whether the District Munsif is of his own accord or on the representation of the parties competent to transfer a Small Cause Suit to the regular side of the Court, if it appears that the ends of justice will be better met by such transfer; and we answer that question in the negative.

If the suit be one within the jurisdiction of a Small Cause Court under Section 6 of Act XI of 1865, then no other Court can entertain it, subject to the proviso in Section 12 of the Act; and if the suit be not within the jurisdiction of the Small Cause Court the proper course is to dismiss it.

The fact that an appeal is pending in another suit between the same parties previously decided by the same Judge as a District Munsif, and in which a question was determined which may again be raised in the present suit affords no ground for the District Munsif declining to exercise his jurisdiction as a Judge of the Small Cause Court in the present suit.

1870. The only question which the Judge has to consider is
January 26. whether by law he has jurisdiction under Act XI of 1865 to
R. O. No. 1 hear and determine the suit. If he has, it is his duty to do
of 1870. 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.

1870. THIS was a special appeal against the decision of W.
February 4. Hodgson, the Acting Civil Judge of Cuddalore, in
S. A. No. 41 Regular Appeal No. 58 of 1867, confirming the Decree of the
of 1869. 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.