

APPELLATE JURISDICTION. (a)
Referred Case No. 34 of 1871.

PACHAIPERUMAL CHETTI.

against

SAVAYYAR AUDONI KURUSU RAVVEL.

The effect of the first and fourth clauses of Section 2 of the Indian Registration Act of 1871, read with the provision in the first Schedule as to the extent of the repeal of Act VII of 1870, is to keep in force all the provisions of Act XX of 1866 relating to the procedure for the recovery in a summary way of the amount of an obligation upon agreements recorded under Section 52 of that Act, before the 1st day of July 1871.

THIS was a case referred for the opinion of the High Court by H. Subráya Áyyar, the District Munsif of Strivikundum.

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A petition was presented to the Court of the District Munsif on the 1st August 1871, under Section 53 of the Indian Registration Act XX of 1866, praying for an order to draw up a decree in favor of the Petitioner for Rs. 497 and costs, under a specially registered bond, dated 20th July 1869.

The District Munsif doubted what stamp the petition should bear and he referred the question. In his statement of the case he said,—

“The petition bore a stamp of one-half the value prescribed for the plaint in a regular suit brought to recover the amount specified in the bond in question.

The stamp duty appears to have been paid under Schedule I, Article 3 of the Court Fees' Act VII of 1870, which is not now in force, it having been repealed by the first Schedule annexed to the new Indian Registration Act VIII of 1871. The new Registration Act of 1871 does not provide how stamp duty should be levied in the case of petitions presented under Section 53, Act XX of 1866. The last paragraph of Section 2 of the new Indian Registration Act recites as follows :—“ And nothing herein contained affects Act XX of 1866, so far as relates to the procedure upon any agreement recorded under Section 52 of that Act at any

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time before that day" (1st April 1873). As that part of Section 53 of Act XX of 1866 which provided for the levy of stamp duty in summary suits instituted under the Act, was repealed by the Court Fees' Act, I doubt whether Section 2 of the new Indian Registration Act gives any effect to Section 53 of Act XX of 1866 with regard to the levy of stamp duty."

No Counsel were instructed.

The Court delivered the following

JUDGMENT :—We are of opinion that the effect of the first and fourth Clause of Section 2 of the Indian Registration Act of 1871, read with the provision in the 1st Schedule as to the extent of the repeal of Act VII of 1870, is to keep in force all the provisions of Act XX of 1866 relating to the procedure for the recovery in a summary way of the amount of an obligation upon agreements recorded under Section 53 of that Act, before the first day of July 1871. Consequently that the stamp duty leviable upon the petition in the present case is one-fourth the value prescribed for a plaint in such a suit.