

## APPELLATE JURISDICTION (a)

*Civil Miscellaneous Petition No. 296 of 1870.*V. KRISTNAPPAH..... *Petitioner.*

A prisoner in Jail under a Civil warrant is entitled to present a petition of appeal to the Court having power to hear appeals without the intervention of a Vakil.

1870.  
September 12.  
M. P. No.  
6 of 1870.

**A**PPPLICATION by a prisoner in Jail under a Civil warrant praying the High Court to direct the Civil Judge to receive his petition of appeal against the order of the District Munsif's Court of Bellary.

The petition set forth that the petitioner was arrested and imprisoned in the Civil Jail of Bellary in satisfaction of a decree obtained against the petitioner in the Court of the District Munsif of Bellary, and was discharged from the Jail in consequence of the failure of the plaintiff in the suit (the judgment-creditor) to pay batta for the maintenance of the petitioner ; but the petitioner was again arrested and imprisoned at the instance of the judgment-creditor for the same debt, by virtue of a warrant issued by the District Munsif of Bellary.

The petitioner presented a written application to the District Court of Bellary, which was forwarded through the Superintendent of the Jail, praying that he might be released from custody on the ground that he could not be lawfully arrested and imprisoned a second time in execution of the same decree. The Civil Judge directed that the petition should be returned to the petitioner on the ground that it could not be received as it had not been presented by a vakil.

The petitioner then applied to the High Court setting forth the above facts and others which do not bear upon the question decided.

The Civil Judge refused to receive the petition on the ground that he believed he would be acting irregularly in receiving a petition from a Civil debtor unless presented by the petitioner in person or by vakil. Section 280 of the Civil Procedure Code prescribed the course to be followed by a Civil debtor in applying for his discharge, and the late Sadr Court

(a) Present : Holloway, Acting C. J. and Innes, J.

made a ruling on that Section which had been embodied in the High Court Rules of Practice to the effect that such applications should be addressed to the Court under whose orders the Civil debtor should have been confined and should be forwarded to the Court by the Superintendent of the Jail. There was no other provision for any other petition by a Civil debtor being treated otherwise than as an ordinary petition which should be presented to the Court by the petitioner in person or by a vakil on his behalf.

1870.  
December 12.  
C. M. P. No.  
296 of 1870.

The District Munsif of Bellary decided that as the petitioner was discharged from prison by no default of the judgment-creditor (who tendered the batta at the Jail, but was informed that as it was then "vacation time," the batta could not be received there, but must be paid through the Court) he was liable to be imprisoned again in execution of the decree.

No Counsel were instructed.

The Court delivered the following

JUDGMENT :—It appears to us that the petitioner could, through petition, without the intervention of a vakil, have brought his case before the Munsif's Court, and there seems no reason why the same rule should not apply to an appeal by a person in confinement to the Court having power to hear appeals from the order which placed him there.

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