

Krishnasami Vs. Kanakasabai

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Court : Chennai

Decided On : Dec-19-1890

Reported in : (1891)ILR14Mad183

Judge : Arthur J.H. Collins, Kt., C.J. and ;Shephard, J.

Appellant : Krishnasami

Respondent : Kanakasabai

Judgement :

1. As far as the facts are concerned, we expressed our opinion at the hearing that we saw no reason to differ from the finding of the Subordinate Judge. It was, however, contended that the case was one which the District Munsif had jurisdiction to try, inasmuch as the value of the share sought to be recovered, and not the value of the entire property, should be taken to be the value for the purpose of determining jurisdiction. The value of the share would admittedly bring the case within the jurisdiction of the District Munsif. Following the cases cited, viz., Khansa Bibi v. Syed Abba I.L.R. 11 Mad. 140, and Venkatarama v. Meera Labai I.L.R. 13 Mad. 275, we must uphold this contention, for here, as in those cases, the plaintiff and the defendant do not stand in the relation of co-parceners to each other.

2. The question was then raised on behalf of the respondents whether, notwithstanding that the District Munsif had jurisdiction to try the case, the

Subordinate Judge had not concurrent jurisdiction, the case did not come within the provisions of the Suits Valuation Act. With regard to the first of these there is authority in favour of the plaintiff, it having been held as well in Calcutta as in the North- West Provinces* that, although as a matter of procedure suits below a certain value ought to be instituted in the Court of the District Munsif, the Subordinate Judge still has jurisdiction to try them. In our opinion there is great force in the arguments in support of this view. But in the present case it is unnecessary for us to decide the point, because, assuming that the Subordinate Judge had no jurisdiction, we think that Section 11 of the Suits Valuation Act is applicable, and we certainly do not think that the over-valuation of the suit has prejudicially affected the disposal of the suit. It is argued that the section is intended to apply only in cases where the over-valuation or under-valuation is due to a mistake in estimating the value of the subject-matter, and does not apply to cases like the present in which there has been a mistake in principle. But what the section provides for is the 'over-valuation or under-valuation of a suit or appeal,' and there is nothing to show that any distinction should be made according as the mistake was made in one way or another. The present case is certainly within the mischief of the Act, and we see no reason for holding that its provisions are not applicable. It is competent, therefore, to us to dispose of the appeal as if there had been no defect of jurisdiction in the lower Court, and accordingly, having considered the case on its merits, we dismiss the appeal with costs.