

Vanangamudi Vs. Ramasami

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SooperKanoon Citation : sooperkanoon.com/780714

Court : Chennai

Decided On : Feb-12-1891

Reported in : (1891)ILR14Mad406

Judge : Muttusami Ayyar and ;Parker, JJ.

Appellant : Vanangamudi

Respondent : Ramasami

Judgement :

1. It is contended for the respondent that the order appealed against is not a final order and that no appeal lies under Section 15 of the Letters Patent. We do not consider that this contention can be supported. The effect to be given to the word ' Judgment' in Section 15 was considered by Mr. Justice BITTLESTON in Desouza v. Coles 3 M.H.C.R. 386 and it was held that the word has the general meaning of any decision or determination, whether final or preliminary, affecting the rights or the interest of any suitor or applicant. It was also pointed out that that meaning is suggested by the language of the Charter in Clauses 15, 39 and 40. Though the order now before us called for a report from the Subordinate Judge, yet it contained the preliminary adjudication that the appellant was not entitled to recover any rent for the village of Koonur, and that the decree of the Subordinate Judge must be reversed so far as it related to that village.

2. On the merits, we are unable to support the order of the learned Judge. We find on the record a decision of the Deputy Collector in Summary Suit No. 34 of 1888, settling the terms of the patta to which the respondent was entitled for fasli 1293 under Act VIII of 1865. This being so, the Subordinate Judge has jurisdiction to decree the claim for rent, and, even assuming that the decree in Original Suit No. 331 declared that the appellant was entitled only to a money rent in respect of two items of land and not to varum, and that the Subordinate Judge had failed to give due effect to it, the error, if any, is not one by reason of which he assumed a jurisdiction which he did not possess. We are of opinion that it was not competent to the learned Judge to revise the decree of the Subordinate Judge under Section 622 of the Code of Civil Procedure.

3. We set aside the order appealed against, and restore the decree of the Subordinate Judge. The respondent will pay the appellant's costs in this Court and of the proceedings in the Court below under Section 622.