

V.S.Rm. Lingier Vs. Ramakrishnier

V.S.Rm. Lingier Vs. Ramakrishnier

SooperKanoon Citation : sooperkanoon.com/781623

Court : Chennai

Decided On : Sep-01-1933

Reported in : AIR1934Mad8; (1933)65MLJ795

Appellant : V.S.Rm. Lingier

Respondent : Ramakrishnier

Judgement :

Bardswell, J.

1. The learned District Munsif has dismissed the Petitioner's application under Section 73 of the Village Courts Act, for revision of a decree of the Village Munsif, Madura Town, with the words 'I see no reason to interfere. Dismissed.' The main allegation of the Petitioner before the District Munsif appears to have been that he was tricked by the Village Munsif into signing an agreement as to on what material his cause should be tried. The matter was argued before the District Munsif by two vakils, one on either side, and I must take it that the District Munsif held after a full discussion that the Petitioner's contention was not made out. It has been remarked in *Sundara Naicker v. Potti Naicker* I.L.R. (1926) 50 Mad. 494 : M.L.J. 561 that a District Munsif in exercising powers under Section 73 has a very wide discretion, and that in such a revisional proceeding, when a District Munsif states that he has no sufficient cause to disturb the decree of the Lower Court, he cannot be said to be writing an inadequate order. It is now contended for the Petitioner that this view

is incorrect and that a District Munsif when passing orders on a petition presented under Section 73 of the Madras Village Courts Act I of 1889 has to write a judgment such as complies with the provisions of Order 20, Rule 4(2) of the Civil Procedure Code. The question then arises whether a District Munsif when acting under Section 73 is bound by the provisions of the Civil Procedure Code. It is quite clear that as to its scope generally the Madras Village Courts Act is a self-contained Act to which the Civil Procedure Code does not apply. This has been pointed out by Curgenven, J. in *Arumuga Nadar v. Vyyapnri Chetti* : AIR1930 Mad795 and is indeed quite clear from a perusal of the Act itself. But it is contended that the provisions of the Civil Procedure Code are attracted to Section 73 because an order under Section 73 can be revised by the High Court under Section 115. That there can be such revision has been held by Ramesam, J. in *Rama Rao v. Pitchayya* : (1927)53MLJ131 though a Bench of two learned Judges were doubtful as to this in *Paramasivam Pillai v. Periyannayagath Ammal* (1916) 34 I.C. 503. Allowing however that there can be such revision, which is on the ground that a District Munsif's Court is a Court subordinate to the High Court, it does not follow that the Court whose proceedings are revised must have been acting under the Civil Procedure Code. Ramesam, J. has carefully guarded himself from considering whether other sections of the Code apply to Village Courts. In my opinion Section 73 of the Village Courts Act is no more affected by the Civil Procedure Code than are the other sections of the Act. It is contended that even so, when the Act is silent as to the order to be written under Section 73 the order should on general principles be one of the nature of a reasoned judgment. No doubt if a petition is allowed under Section 73 some reason for the order must be stated, but I do not think that any reason need be given in an order for dismissal, at any rate in a case, such as this, where there has been a full discussion. I may note that all I have to go on here is the fact that the order of the District Munsif states no reasons. The order of the Village Munsif is not before me. I find no ground for interference and dismiss this petition with costs.