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Court : Chennai

Decided On : Jul-26-1912

Reported in : (1912)23MLJ193

Appellant : Chintala Raghava Reddy and anr.

Respondent : Chintala Krishna Reddy

Judgement :

1. The plaintiffs sued to recover damages from the defendant on the ground that he removed the wood of certain trees on the bund of a bank. The plaintiff's claim is that they are entitled to the trees as Desabandam Inamdar. The defendant who is a ryot claims that the plaintiffs are not exclusively entitled. The prayer in the plaint is that the defendant should pay Rs. 250 damages being the value of the trees. The value of the suit in the Munsiff's ' Court is less than Rs. 500. It is objected by the respondent that no second appeal lies. The contention seems to us to be obviously right. Mr. Muthukrishna Aiyar for the appellant relies on Sitab Rai v. Dubai Nagesia (1907) 6 C.L.J. 238 decided by Holmwood and Sharfuddin JJ. The judgment in that case is based on the ground that in the written statement the defendant claimed title to the trees cut by them and the question raised on appeal was also one that related to title. This is not a sufficient ground for holding that a suit which is of the nature of damages for trespass is not cognizable by the Small Cause Court. Questions of title are frequently raised in Small Cause suits and a discretion is given to the Small Cause Court by Section 23 of the Provincial Small Cause Courts Act to return the plaint for presentation to the Court having power to

decide the question of title finally. That section clearly shews that if a question of title is involved that is not a ground for holding that the suit is not of a Small Cause nature but for directing it to be tried as a regular suit where in the interest of the parties it is desirable that such a course should be adopted. It is admitted by Mr. Muthurkrishna Aiyar that the decisions of this Court have consistently held, that a suit for damages for trespass is a suit cognizable by a Small Cause court. We, therefore, uphold the preliminary objection and dismiss the Second Appeal with costs.

2. We are asked to convert the Second Appeal into a Civil Revision Petition but in the circumstances we are not inclined to do so.

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