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Court : Chennai

Decided On : Oct-26-1927

Reported in : (1928)54MLJ323

Appellant : Sadaka Muhammad and anr.

Respondent : M. Hayath Batcha Sahib and anr.

Judgement :

1. This is an appeal against the order of Curgenven, J., refusing to stay execution in a Civil Revision Petition filed under Section 115 of the Code of Civil Procedure and Section 107 of the Government of India Act.

2. The first question is whether a Letters Patent Appeal would lie against the order. Section 15 of the Letters Patent as it is now amended expressly states that there is no appeal against an order made in the exercise of the High Court's revisional jurisdiction. It is conceded that no appeal would lie against an order passed by the High Court in the revision petition itself. It seems to us then that there can be no appeal against any interlocutory orders passed in the revision petition. Where a Civil Revision Petition is filed and interlocutory applications are made in the Civil Revision Petition for reliefs, the High Court can act in its exercise of revisional jurisdiction in dealing with these applications. It is difficult to see how an appeal would lie having regard to the express provisions of the Letters Patent which preclude appeals against orders passed in the exercise of revisional jurisdiction. There is no authority for the proposition that the orders on applications filed in a

Civil Revision Petition filed under the revisional jurisdiction of the High Court are passed in the exercise of its appellate jurisdiction and that it is only the final order passed in the revision petition that is passed in the exercise of its revisional jurisdiction. It is difficult to see how there can be any application apart from the Civil Revision Petition filed in the High Court as a party could not, without filing a Civil Revision Petition in the High Court, ask for stay of execution of the decree in the lower court. The authorities as regards the appealability of orders passed in revisional jurisdiction prior to the amendment of the Letters Patent offer us no help whatever. The very object of the amendment was to put an end to appeals from orders passed by the High Court in its revisional jurisdiction. We think it is clear that all orders passed in applications in Civil Revision Petitions are dealt with by the High Court, in the exercise of revisional jurisdiction, and that orders passed in the exercise of that jurisdiction are not appealable under the Letters Patent.

3. The appeal fails and is dismissed with costs.

4. The petition for stay (C. M. P. No. 3590 of 1927) also is dismissed with costs.

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