

Sundara Naicker Vs. Potti Naicker

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Court : Chennai

Decided On : Aug-16-1926

Reported in : AIR1927Mad192; (1926)51MLJ561

Appellant : Sundara Naicker

Respondent : Potti Naicker

Judgement :

Jackson, J.

1. Petitioner seeks to revise the order of the District Munsif, Sathur, in O.P. No. 24 of 1924, declining to act under Section 73, Madras Act I of 1889. A District Munsif has the widest discretion under this section and, even if facts are established bringing the case within one of the three categories which may warrant revision as set forth in the section, he may still exercise his discretion whether he will interfere. Therefore, it can only be in very rare and exceptional cases that the revisional powers of this Court will be attracted by any proceedings of a District Munsif under Section 73. The petitioner would have been on stronger ground if he had moved this Court to revise the judgment of the Panchayat Court itself, but in a petition confined to the decision of the Munsif, it cannot be said that he failed to exercise jurisdiction for he heard arguments from both sides and it cannot be said that he ought of necessity to have set aside the decree, because he has full discretion in the matter. Nor in a revisional proceeding of this sort, can it be said that to state

that he sees no sufficient cause to disturb the decree of the Lower Court, is to write an inadequate order.

2. Two grounds are urged which would be more germane to a petition against the original decree. Firstly, that the Panchayat Court heard no evidence. This is inferred from the record. ' Witnesses examined for the plaintiff nil, ' but it seems probable that the plaintiff himself was examined and there is no suggestion to the contrary in the present petition.

3. Secondly, that a party cannot sue under Madras Act I of 1899, for the value of damaged crops, inasmuch as it is not a claim for the value of personal property as contemplated by Section 13. Personal property is not defined in the Act and presumably, it means moveable property and moveable property as defined by the Transfer of Property Act includes growing crops. If the cause of action is the destruction of a growing-crop, a party may sue for its value in the village Court.

4. The petition is dismissed with costs.

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