

In Re: Alamelu

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Court : Chennai

Decided On : Feb-02-1950

Reported in : AIR1950Mad561

Judge : Rajamannar, C.J. and ; Somasundaram, J.

Acts : [Code of Civil Procedure \(CPC\) , 1908](#) - Order 33, Rule 11

Appeal No. : Referred Case No. 3 of 1949

Appellant : In Re: Alamelu

Advocate for Pet/Ap. : Government Pleader and ; R. Sundaralingam, Adv.

Judgement :

Rajamannar, C.J.

1. We are of opinion that if a plaintiff who has filed a suit in forma, pauperis abandons a part of his claim he should be called upon to pay the proportionate court-fee on the part abandoned. This follows from the language of Order 33, Rule 11, Civil P. C., as amended in Madras. If the suit is withdrawn in its entirety, then undoubtedly, the pauper plaintiff has to pay court-fee on the entire claim. Abandonment of a part of the claim is tantamount to withdrawal of the suit in part. He will therefore be liable to pay court-fee on the part withdrawn or abandoned. We find that a similar view was taken by Shahabuddin J., in C. R. P. 454 of 1946. The reference is answered accordingly.

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