

In Re: M. Kuttia Pillai

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SooperKanoon Citation : sooperkanoon.com/813616

Court : Chennai

Decided On : Feb-20-1942

Reported in : AIR1942Mad445

Appellant : In Re: M. Kuttia Pillai

Judgement :

ORDER

Burn, J.

1. The learned District Munsif has not called upon the petitioner to pay any particular court-fee and the question of what is the proper court-fee is not in my opinion before me. If it were, I should be obliged to decline it, because the duty of fixing the court-fee is cast by law on the trial Court and the trial Court's decision is ordinarily final. The learned District Munsif has however exceeded his jurisdiction in directing the plaintiff to add to his plaint certain prayers which the plaintiff does not want to add. The Court has no power, so far as I am aware, to compel any party to pray for any particular relief. In this case the petitioner alleges that the decree and subsequent proceedings in execution of the decree in O.S. No. 23 of 1932 are null and void and not binding on him. But he does not ask the Court to make any declaration to that effect, or to set them aside as void against him. The learned District Munsif has ordered him to add a prayer for the cancellation of the decree. He does not wish to do so and I am not aware of any power in the Court to compel him. The order of the lower Court directing amendment of the prayer is

accordingly cancelled. It remains for the lower Court to determine, on the plaint as it is, what is the proper court-fee and to dispose of the plaint according to law. I make no order as to costs of this petition.

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