

In Re: Ayisha Bibi Ammal

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SooperKanoon Citation : sooperkanoon.com/820928

Court : Chennai

Decided On : Dec-01-1924

Reported in : AIR1925Mad1167; 87Ind.Cas.705

Appellant : In Re: Ayisha Bibi Ammal

Judgement :

1. We think the judgment of Innes, J., in O.S. No. 5 of 1877 makes the present suit res judicata. The Original Side of the High Court was certainly competent to take cognizance of the present suit with reference to the value of the suit. We are of opinion that competency in Section H, Civil P.C., has reference to the value of suit and not to the territorial jurisdiction. No authority has been cited against this view by the learned vakil for the appellant. The property which is now the subject of this suit was also the subject of the former suit. The plaintiff has not pleaded that, in spite of the settlement of 1876 and the decree in O.S. No. 5 of 1877, she was in possession of the suit properties adversely to those who are entitled to them under the settlement and decree and acquired a title by adverse possession. Even if the allegation of possession in the plaint put was meant to raise this no issue was taken.

2. The second appeal is dismissed.