
(1944) 12 MAD CK 0002

Madras High Court

Case No: None

Ponnammal and Others

APPELLANT

Vs

Rajambu Ammal

RESPONDENT

Date of Decision: Dec. 15, 1944

Acts Referred:

- Civil Procedure Code, 1908 (CPC) - Order 45 Rule 4

Citation: (1945) ILR (Mad) 672 : (1945) 1 MLJ 73

Judgement

@JUDGMENTTAG-ORDER

1. The petitioners in these petitions are the legal representatives of the defendant (deceased) in O.S. No. 27 of 1933 on the file of the lower Court

and the sole respondent in Appeal No. 400 of 1942 on the file of this Court. The value of the subject-matter of the suit and of the appeal to His

Majesty in Council in this case is below Rs. 10,000; but the two suits O.S. Nos. 27 and 28 of 1933 were disposed of by the lower Court by a

common judgment; and the appeals in this Court were also disposed of by a common judgment. They raise substantially the same questions,

namely, the mental capacity of Somasundara and the way in which the defendants conspired together to obtain the various alienations in their

favour. We think this is a fit case in which consolidation should be ordered. C.M.P. No. 5645 of 1944 is therefore ordered and we direct the

appeal to His Majesty, in Council to be consolidated with the appeal from the decree of this Court in Appeal No. 381 of 1941. If this is done, the

value of the combined appeals is over Rs. 10,000 and we grant the necessary certificate for the reasons which we have given in our order in

C.M.P. No. 5281 of 1944.

2. There is a further prayer that even for the purposes of furnishing security and depositing printing charges, the two appeals may be consolidated.

Order 45, Rule 4 of the CPC deals only with the question of consolidation as regards valuation for purposes of appeal to His Majesty in Council

and we have not been referred to any provision of law under which consolidation may be ordered in respect of deposit of printing charges or

furnishing security. As regards consolidation for furnishing security the question has been dealt with in Venkatrao Shrinivasrao Vs. Basavprabhu

Sirdesai, . The learned Judges came to the conclusion that there is no provision empowering the Court to order consolidation for the purpose of

security for costs. They referred to and relied upon an earlier case of the Patna High Court in Mt. Bibi Nabi Zohra v. Rai Baijnath Goenka

Bahadur. (1919) 4 Pat. L.J. 198. The question as regards consolidation in respect of printing charges is in no way different from the question as

regards consolidation for purposes of security. Following these decisions we reject this part of the prayer in the petition. The petitioners must

deposit the printing charges and furnish security.