

**In Re: Vaithilinga Pandara Sannadhi Avergal by Power-of-attorney Agent Anantarama Iyer**

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**Court :** Chennai

**Decided On :** Nov-01-1929

**Reported in :** AIR1930Mad381; (1930)58MLJ521

**Appellant :** In Re: Vaithilinga Pandara Sannadhi Avergal by Power-of-attorney Agent Anantarama Iyer

**Judgement :**

ORDER

Curgenven, J.

1. The question referred to us is whether the Court has inherent jurisdiction to consolidate Civil Revision Petitions in cases which have been disposed of by a single judgment of the Lower Court so as to enable the party to file one vakalat in the petitions and to pay one process fee for the common respondents. In In re Maharaja of Venkatagiri (1929) 58 M.L.J. 510 we have held generally that this Court has no power to consolidate appeals in such a manner as to conflict with the provisions of any statutory enactment, and specifically that it cannot so consolidate as to permit a single vakalat to be filed in a number of appeals or a single Court-fee, calculated upon the aggregate value of the appeals, to be paid. This decision, of course, applied equally to the case of Civil Revision Petitions and it : accordingly settles the question with regard to vakalats.

2. There remains the question of process fees, whether, when one person figures as respondent in a number of cases, a single process can be issued to him, to embrace all the cases, upon payment of a single fee. We have to see whether such a course would transgress any provision of law. Section 20 of the Court-fees Act empowers the High Court to make rules regulating the fees chargeable for serving and executing processes issued by it in its appellate jurisdiction, which comprises also its revisional jurisdiction. Rule 2 (1) of Order 41-A provides that a memorandum of appeal shall be accompanied by the prescribed fees for the service of notice of appeal, and Appellate Side Rules No. 41 makes a similar provision in the case of Civil Revision Petitions. The rules for the service of notices form the subject of Chapter VII of the Appellate Side Rules, Rule 61 fixing the fees chargeable. The Schedule to that rule prescribes a fee of Re. 1 for each summons or notice 'to a single respondent or witness'. This is a rule framed under Section 20 of the Court-fees Act and has the force of law. Unless, therefore, we can construe the words 'single respondent' as embracing any one person, though he may be a respondent in a number of cases, permission to consolidate would involve permission to pay a single fee where the rule prescribes a separate fee in each case. We do not think that such a construction would be correct. The rule, in our view, makes no provision for the circumstance, accidental from the

point of view of procedure, that the respondent in one case may be the same individual as the respondent in another, but requires that each respondent be treated independently of the other. Accordingly it would conflict with the rule to allow process to issue in two or more cases on payment of a single process fee and, as we have held in *In re Maharaja of Venkatagiri* (1929) 58 M.L.J. 510 we have no power to relax the terms of an enactment or statutory rule for the purpose of consolidation. A similar application to consolidate was refused by a Bench of the Calcutta High Court in *In the matter of the Application of H.C. Studd* I.L.R.(1898) C. 124 Rampini, J., basing his refusal upon the inability of the Court to relax a statutory rule.

3. We accordingly answer the question referred to us in the negative. We would add that there appears to be no objection to issue a single consolidated process with the several causes entered in it, provided that the amount of process fees for the issue of process in each case is paid. We give the petitioner one month from this date to file duly stamped vakalats and pay process fees.

Kumaraswami Sastri, J.

4. I agree.

Pakenham Walsh, J.

5. I agree.

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