

1900.
July 6.

SIYADORIS APPUHAMY v. GIRIGORIS APPUHAMY.

C. R., Tangalla, 2,219.

Court of Requests—Ordinance No. 12 of 1895, s. 13—Leave of the Commissioner to appeal.

The policy of the Legislature, in framing section 13 of the Ordinance No. 12 of 1895, is to make the decisions of a Commissioner on questions of fact final. It is only when he has any doubt as to the justice of his decision or, if not feeling a doubt himself, yet thought that other persons might reasonably take a different view of the case, that he should grant leave to appeal.

IN this action for money lent the Commissioner gave judgment for plaintiff on the 24th November, 1899. The defendant desiring to appeal moved the Court under section 13 of the Ordinance No. 12 of 1895 for leave to appeal. The Commissioner ordered as follows:—

“ I grant leave, but I trust that my doing so may not be taken
“ to show that I have any doubt as to the justice of the decision

“ I have come to. I do so in deference to what I believe to be the wishes of the Supreme Court in such matters.”

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Defendant filed his appeal.

Thiru-Nāvuk-Arasu, for appellant.

Van Langenberg, for respondent.

BONSER, C.J., after considering the case on the merits dismissed the appeal, and made the following remarks as to the principles which should guide the Commissioners in granting leave to appeal:—

There is one word I should like to add as to the reason alleged by the Commissioner for giving leave to appeal in this case. He says: “ I grant it, but trust that my doing so may not be taken to show that I have any doubt as to the decision I have come to. I do so in deference to what I believe to be the wishes of the Supreme Court in such matters.” Where the Commissioner got his information as to the wishes of the Supreme Court, I do not know. As far as I am personally concerned, his action is not in accordance with my wishes. The policy of the Legislature was to make the decisions of Commissioners on questions of fact in actions like the present final, for it provided that in such cases there should be no appeal, except upon matters of law, or upon the admission or rejection of evidence, or with the leave of the Commissioner. That did not authorize the Commissioner to give leave as a matter of course, which I gather is the practice of this Commissioner. It meant that if the Commissioner felt any doubt as to the justice of his decision, or, if not feeling a doubt himself, yet thought that other persons might reasonably take a different view of the case, then, in such a case, he should grant leave. But it was never intended that a Commissioner who, as in the present case, felt assured in his own mind that his judgment was right, should put the successful party to the risk and expense of appeal or that he should allow the unsuccessful party to throw away his money on a hopeless appeal.
