

*Judgment of the Lords of the Judicial Committee
of the Privy Council on the Appeal of Karuppanan
Servai and others v. Srinivasan Chetti and others
from the High Court of Judicature at Madras,
delivered December 3rd, 1901.*

Present :

LORD MACNAGHTEN.

LORD LINDLEY.

SIR FORD NORTH.

[*Delivered by Lord Macnaghten.*]

THEIR Lordships are of opinion that this Appeal must be dismissed.

There is no question of Law. The facts have been found by two Courts ; and there being two concurrent findings of fact, the Decree that was pronounced by the Lower Court, and affirmed by the High Court, must be sustained.

In their Lordships' opinion the High Court ought not to have given leave to appeal in this case. The Code is clear upon the point. The words are:—" Where the Decree appealed from
" affirms the decision of the Court, immediately
" below the Court passing such Decree, the Appeal
" must involve some substantial question of
" Law."

Now in the present case, Mr. Mayne has had considerable difficulty in stating what the question of Law is, and the Court that gave the leave to Appeal seems to have had equal difficulty, because they say in their Order—" There seems to be a
" point of Law, which however does not appear to
" have been argued here " ; and upon that ground they have given leave to appeal.

That appears to their Lordships to be utterly contrary to the provisions of the Civil Procedure Code. In their Lordships' opinion no leave ought ever to have been given; and the Appeal must be dismissed.

Their Lordships will therefore humbly advise His Majesty that this Appeal should be dismissed.

The Respondents must have their costs up to the lodgment of their case.