

(1915) 10 MAD CK 0037
In the Madras High Court

Ganapathi Asari and Others

APPELLANT

Vs

Sundaram Chetti

RESPONDENT

Date of Decision : 27-10-1915

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 92

Citation : 31 Ind. Cas. 397

Hon'ble Judges : Spencer, J;Abdur Rahim, J

Bench : Division Bench

Judgement

1. This application is made to us with a view to have the question decided whether the Subordinate Judge's Court at Salem has jurisdiction to try the suit which is instituted u/s 92 of the Civil Procedure Code, that is to say, with respect to the public charity. What happened was the suit was originally instituted in the District Court of Salem. At that time the District Court alone had jurisdiction to try such suits as the principal Civil Court of original jurisdiction in the district. The Local Government, however, on the 17th October 1910, invested all Courts of Subordinate Judges in this Presidency with jurisdiction under the CPC in respect of suits relating to trusts created for public purposes of a charitable and religious nature and the Temporary Subordinate Judge's Court, by a notification throughout the District of Salem; but by a subsequent notification dated 13th July 1915, the order was modified to this extent, that the Court should have and exercise original jurisdiction over the village of Mastampath. The result of the later order is that for the purpose of institution of suits, the Temporary Subordinate Judge at Salem will have local jurisdiction only over the village of Mastampath, but it is empowered, like other Subordinate Judges' Courts in the district, to try any suit which the District Judge is empowered to make over to it. This suit being instituted originally in the District Court, the only question that has to be decided is whether it having transferred the suit to the Temporary Court, this Temporary Court has the power to try it. It apparently derived its power from the notification of the 17th October 1910, and it is difficult to see what difficulty there is in the way of the Subordinate Judge exercising powers

which the Local Government was competent to confer under the provisions of Section 92 of the Code and which it did as a matter of fact confer on all Subordinate Judges in this Presidency. A ruling reported in Muhammad Musa v. Abul Hassan Khan 22 Ind. Cas. 951 has been cited before us, but that case is quite distinguishable from the present one. There the Additional Judge to whom the case was transferred by the District Judge was not empowered by the Local Government to try suits u/s 92 of the Civil Procedure Code, as the Subordinate Judge in this case has been.

2. We hold that the Subordinate Judge is competent to try and dispose of the suit.

3. The petition is dismissed. Costs will abide the result.

4. Civil Miscellaneous Petition No. 2779 of 1915 is also dismissed.