

(1913) 12 MAD CK 0026
In the Madras High Court

Mr. J. Seiber and Another

APPELLANT

Vs

Daniel Varki

RESPONDENT

Date of Decision : 05-12-1913

Acts Referred:

Citation : 25 Ind. Cas. 41

Hon'ble Judges : Oldfield, J

Bench : Single Bench

Judgement

Oldfield, J.—The first objection to the lower Court's decision and the only one which it is necessary to consider, is that a Small Cause Court had no jurisdiction, because the suit relates to a trust. Prima facie it certainly is so, since the refund of subscriptions to a subscriber, who is dismissed or has resigned, is not one of the objects of the trust as stated in Rule 1 of Exhibit I.

2. The plaintiff-respondent has attempted to show that it is covered by Rule 9. But I cannot import into that rule by implication what his argument requires. His claim, therefore, involves the Court sanctioning an extension of the objects of the trust or an ascertainment of the cestui que trust under it. The case must be distinguished on this ground from *Sri Venkatachellapathy Subyya Vyavasaya v. Kanahasabapathi Pillai Dharmum* 5 Ind. Cas. 912 : 8 M.L.T. 67 : 83 M.P 494 : 20 M.L.J. 146. *Subraminia Ayyar v. Pandi Doraisami Taver* 26 M.P 308 is more directly in point and is against the respondent. The civil revision petition must be allowed on the question of jurisdiction. The lower Court's decision is set aside and the plaint should be returned by the lower Court for representation in the proper Court. Costs up to date will be costs in the case.