
(1991) 07 MAD CK 0004
In the Madras High Court
Case No : C.R.P. No. 2654 of 1989

Nataraja Virudhular and another	Vs	APPELLANT
M. Mahalingam and 6 others		RESPONDENT

Date of Decision : 15-07-1991

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 92

Citation : (1991) 07 MAD CK 0004

Hon'ble Judges : Srinivasan, J

Bench : Single Bench

Advocate : G. Devadoss, for the Appellant; S. Gopalaratnam, for Mr. K. Sampath, for the Respondent

Final Decision : Dismissed

Judgement

Srinivasan, J.—This revision petition is without any merit. It is against an order of grant of lease for filing a suit under S. 92, Civil Procedure

Code. Two objections are raised by the petitioners. The first is that the Sub-Court, Kumbakonam, has no jurisdiction to try the suit under S. 92,

C.P.C. The objection is based on the working of S. 92, C.P.C. Under the Section one or more persons having an interest in the trust and having

obtained the leave of the Court, may institute a suit, in the principal Civil Court of original jurisdiction or in any other Court empowered in that

behalf by the State Government within the local limits of whose jurisdiction the whole or any part of the subject-matter of the trust is suitable. It is

argued that the Sub Court at Kumbakonam is not the principal Civil Court of original jurisdiction and that the State Government has not

empowered the said Court to try the suit. This contention is baseless.

2. It is seen from the judgment in Ganapathi Asari v. Sundaram Chetti AIR 1916

Madras 960, the State Government had as early as on 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. Hence the Subordinate Judge's Court. Kumbakonam is vested with jurisdiction to

entertain the suit under S. 92, C.P.C. The first objection is, therefore, rejected.

3. The second objection is that the second plaintiff is the son of the first plaintiff and during the lifetime of the latter, the second plaintiff has no

interest in the trust. It is argued that the second plaintiff will be a trustee only after the life time of the first plaintiff and he cannot claim to have any

present interest in the trust. I do not agree. It is not necessary for the purpose of filing under S. 92, C.P.C., that the plaintiffs should be trustees of

the trust. Even so, the first plaintiff in this case, is admittedly the trustee and the second plaintiff is his son and hence the second plaintiff is a person

having interest in the trust and for that purpose he need not be a trustee in praesenti. Hence the second objection is also rejected. In the

circumstances, this revision petition is dismissed with costs.