

APPELLATE CIVIL.

*Before Sir Arthur J. H. Collins, Kt., Chief Justice, and
Mr. Justice Parker.*

SUNDARA AND OTHERS (DEFENDANTS 1—3), APPELLANTS,
and

SUBBÁ, AND ANOTHER (PLAINTIFFS), RESPONDENTS.*

1887.
April 25.

Valuation of suit—Jurisdiction of District Múnsifs—Suit for declaration of title to paid offices—Withdrawal of claim to some of the offices—Office still claimed involving the right to the others.

In a suit to declare title to four paid offices in a temple, the plaintiffs asked that the issues with regard to three of them should not be tried, but on cross-examination asserted right to them :

Held, that the plaintiffs were not shown to have relinquished their claim on the three offices for the purposes of the suit.

On findings that the fourth office carried with it the right to the other three and that united value of the four offices exceeded the jurisdiction of the District Múnsif :

Held, that the District Múnsif had no jurisdiction to entertain the suit and that the plaint should be returned for presentation in the proper Court.

SECOND appeal from the decree of S. Gopalácháryár, Acting Subordinate Judge of Madura (East), in Appeal Suit No. 300 of 1884, confirming the decree of P. S. Gurumúrthi Ayyar, District Múnsif of Tirumangalam, in Original Suit No. 34 of 1882.

This was a suit for a declaration of the plaintiffs' title to certain offices in the temple of Thiruparangundram, viz., the Stánikum, Archaka, Nirvákum and Paricháraka offices. Issues were framed with regard to each of these offices, but the plaintiffs requested that those relating to the last three should not be tried ; plaintiff No. 2 said, however, in cross-examination, that he did not limit his suit to the Stanikum office alone.

The District Múnsif passed a decree declaring the plaintiffs' title to the Stanikum and his decree was confirmed by the Subordinate Judge who made the following observations with regard to this office :—

“ The Stanika is something like a superintendent of the temple, and is responsible to higher authorities for the due perform-

* Second Appeal No. 897 of 1886.

SUNDARA
S. SUBBÁ.

ance by the other officers of their duties and for certain acts to be performed by himself. No lands are attached to that office in particular, but there are certain emoluments, honors and responsibilities attached to it specifically, and although the Stanikum office is a distinct one from the other three offices, Archaka, Paricháraka and Nirvákum, and one holding the latter need not necessarily and does not often hold the former, it has so happened in this temple that, while there are individual officers for the other duties, the Stanikas strictly so called have also had a right to the other offices."

The defendants preferred this second appeal.

Rámá Ráu, Subramanya Ayyar and Rámasámi Ayyangár for appellants argued that the suit was beyond the pecuniary limits of the District Múnsif's jurisdiction, because the emoluments attached to all the offices claimed in the plaint should be considered in deciding the question of jurisdiction and not those attached to Stanikum office only.

Bháshyam Ayyangár and Rangácháryár for respondents *contra*, on the ground that the declaration had been only asked and granted in respect of the Stanikum office alone.

The Court (Collins, C.J., and Parker, J.) made the following

ORDER:—We can find nothing on the record to show that plaintiffs relinquished their claim to share in the other three offices besides Stanikum, as far as this suit is concerned. There is nothing in writing to show it, and we cannot infer it from a mere request that certain issues need not be tried in the face of the denial of second plaintiff in his cross-examination that he had ever consented to limit the suit to the Stanikum office alone.

If the right to the Stanikum office carries with it the right to the other three in this temple, they must all be valued for the purposes of jurisdiction.

We will ask the Subordinate Judge to return a finding on the issue "what is the value of the suit for purposes of jurisdiction?"

In accordance with the above order, the Subordinate Judge recorded a finding that if the emoluments attached to the Stanikum office alone are to be considered, the valuation is Rs. 70-13-4, and if those appertaining to all four offices are to form the basis for calculation, the valuation exceeds Rs. 2,500, the pecuniary jurisdiction of the District Múnsif.

This second appeal coming on for rehearing, the Court (Collins, C.J., and Parker, J.) delivered the following

SUNDARA
SUBBÁ.

JUDGMENT:—We must hold that the District Múnsif had no jurisdiction on the ground that the plaint stated that the right to the Stanikum included and carried with it the right to the other three offices. The decrees of the Courts below must be reversed and the plaint returned for presentation in the proper Court. The respondents must pay all costs hitherto incurred.

APPELLATÉ CIVIL.

Before Mr. Justice Kernan and Mr. Justice Muttusámi Ayyar.

LAKSHMANAN AND ANOTHER (PETITIONERS)

and

PERYASÁMI (RESPONDENT).*

1887.
April 21.

Civil Procedure Code, s. 599—Limitation Act—Act XV of 1877, s. 12, sch. II, art. 177—Period of limitation for admission of an appeal to Privy Council.

On a petition for leave to appeal to the Privy Council presented on the 8th April, it appeared that the period of six months from the date of the decree to be appealed against had expired on the 23rd of March if the time occupied by the petitioner in getting a copy of the decree was to be computed in that period:

Held, that the petition was barred by limitation.

Per cur. It is not at all clear that the word "ordinarily" in s. 599 of the Code of Civil Procedure does not refer to the circumstance referred to in the second paragraph of that section, viz., when the last day happens to be one on which the Court is closed.

THIS was a petition under s. 599 of the Code of Civil Procedure for liberty to appeal to the Privy Council.

Subramanya Ayyar and *Rangácharyár* for petitioner.

Respondent was not represented.

The facts of the case and the arguments adduced on this petition appear sufficiently for the purpose of this report from the judgment of the Court (Kernan and Muttusámi Ayyar, JJ.).

JUDGMENT.—This is an application under s. 599, Civil Procedure Code, for liberty to appeal to the Privy Council. The question is, whether the application is in time within that section and art. 177, Limitation Act of 1877.

* Civil Mis. Petition No. 254 of 1886.