

CHINNASWAMI PILLAI
v.
APPASWAMI PILLAI.
NARIEB, J.

of the infant child in whose favour the surrender was made, I am inclined to think that such a reservation is not within the mischief of the doctrine laid down by Mr. Justice SUBRAHMANYA AYYAR, and it would certainly be covered by the suggested modification of the rule laid down in *Challa Subbiah Sastri v. Palury Pattabhiramayya*(1).

For these reasons I concur in holding that the appeal should be dismissed with costs.

K.R.

APPELLATE CIVIL.

Before Mr. Justice Oldfield and Mr. Justice Phillips.

AMBA *alias* PADMAVATI (PETITIONER), APPELLANT,

v.

SRINIVASA KAMATHI (RESPONDENT), RESPONDENT.*

Appeal to Privy Council—Petition to High Court for leave to appeal to Privy Council in forma pauperis, whether maintainable.

The High Court cannot entertain applications for leave to appeal to the Privy Council *in forma pauperis*.

Jagadanand Asram v. Rajendra Roy (1912) 17 C.L.J., 381 and *Ramkishan Lal v. Manu Kumri* (1916) 3 P.L.J., 179, followed.

PETITION presented under sections 109 to 110 and Order XLV, rules 2, 3 and 8 of Act V of 1908, praying the High Court to grant a certificate to enable the petitioner to appeal to His Majesty in Council against the decree of the High Court in Appeal No. 24 of 1916 preferred against the decree of the Subordinate Judge of South Kanara in Original Suit No. 73 of 1914 and to grant leave to petitioner to prefer the said appeal *in forma pauperis*.

The facts appear from the judgment.

C. V. Anantakrishna Ayyar and *K. Sundara Rao* for the appellant.

B. Sitarama Rao and *K. P. Lakshmana Rao* for the respondent.

The JUDGMENT of the Court was delivered by

OLDFIELD, J.

OLDFIELD, J.—The petition, in so far as it is for a certificate that the case is a fit one for appeal to His Majesty in Council, is

(1) (1908) I.L.R., 31 Mad., 446.

* Civil Miscellaneous Petition No. 1588 of 1918.

not opposed. We certify accordingly under section 110 of the Code of Civil Procedure.

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The petition is further for leave to appeal *in forma pauperis*. In *Munni Rama Awasty v. Shoe Churn Awasty*(1) Counsel (Mr. OGDFIELD, J. Moore) referred generally to a practice of the Court in India granting such leave, mentioning Bengal Regulation XXVIII of 1814. But no precedent for its grant has been proved in this court and the authority of decisions in other High Courts is against it. *Jagadanand Asram v. Rajendra Roy*(2) and *Ramkishan Lal v. Manna Kumri*(3). We respectfully adopt the grounds of the latter decision and dismiss the petition so far as it relates to leave to appeal *in forma pauperis*. There will be no order as to costs.

N.R.

APPELLATE CIVIL.

Before Sir John Wallis, Kt., Chief Justice, and Mr. Justice Seshagiri Ayyar.

RIPON PRESS AND SUGAR MILL COMPANY, LIMITED
(DEFENDANT), APPELLANT,

1918,
July 26 and
29.

v.

NAMA VENKATARAMA CHETTY (PLAINTIFF),
RESPONDENT.*

Limitation Act (IX of 1908), art. 116—Company registered under the Indian Companies Act (VI of 1882)—Suit for dividend by a shareholder, governed by art. 116—'Registered' in art. 116, meaning of.

A suit by a shareholder against a company registered under the Indian Companies Act (VI of 1882) to recover dividends duly declared by the company, is governed by article 116 of the Limitation Act as the right to a dividend arises out of the contract between the shareholders contained in the registered memorandum and articles of association.

'Registered' in article 116 means 'registered' not only under the Indian Registration Act (III of 1877) but also under special Acts, such as the Indian Companies Act, which requires the memorandum and articles of association of a company to be registered.

A dividend is a debt on a 'contract in writing registered' within article 116 of the Limitation Act.

(1) (1847) 4 M.I.A., 114 at 136.

(2) (1912) 17 C.L.J., 381.

(3) (1916) 3 P.L.J., 179.

* Appeal No. 371 of 1917.