

APPELLATE CIVIL.

Before Mr. Justice Jackson.

MR. CHIDAMBARAM CHETTIAR (PETITIONER),
 PETITIONER,

1924,
 July 23.

v.

C. K. KADAR MOHIDEEN ROWTHER AND FIVE OTHERS
 (RESPONDENTS), RESPONDENTS.*

Civil Procedure Code, O. XXXIII, r. 3—Application to sue in forma pauperis—Presentation to Sarishtadar of Court, proper presentation—Rule 14 of Civil Rules of Practice, not ultra vires.

Presentation of an application to sue *in forma pauperis* to the chief ministerial officer of the Court (e.g.) Sarishtadar, is a proper presentation. It need not be to the Judge himself. Rule 14 of the Civil Rules of Practice is not *ultra vires*.

PETITION under section 115 of Act V of 1908 praying the High Court to revise the order of K. SOWRIRAJULU NAYUDU, Subordinate Judge of Tinnevely, in Original Petition General No. 1084 of 1922.

The plaintiff preferred this Revision Petition.

The facts are given in the judgment.

P. V. Krishnaswami Ayyar for petitioner.—The lower Court wrongly rejected the petition on the ground that the petition should have been presented to the Judge himself. Presentation to the Sarishtadar is valid; see rule 14 of the Civil Rules of Practice which is a valid rule. Emphasis in Order XXXIII, rule 3, Civil Procedure Code, is only on the personal appearance of the pauper for purposes of examining him orally to verify if he is a pauper. Legislature could not have intended that the petition should be handed only into the hands of the presiding Judge. Compare Order VII, rule 10,

* Civil Revision Petition No. 762 of 1922.

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Order XXI, rule 1, Civil Procedure Code, where "Court" is mentioned. The Code mentions "Judge" wherever necessary. *Jairam v. Motilal*(1) is on all fours. Practice in the High Court is to present such petitions only to the officer of the Court.

R. Ganapati Ayyar for respondent.—Rule 14 of the Civil Rules of Practice is *ultra vires*. The Civil Procedure Code purposely mentions presentation of petition direct to the Judge himself. Further, the petitioner has now become an insolvent and the proper person to conduct this and other matters is only the Official Receiver who has not done so.

P. V. Krishnaswami Ayyar in reply.—If the case is now remitted, the Official Receiver will continue the proceedings.

JUDGMENT :—

The petitioner's pauper petition was rejected merely because it was presented in person to the Sarishtadar and not to the Court.

There is no reason to hold that rule 14 of the Civil Rules of Practice is *ultra vires*. "Court" is nowhere defined in the Code of Civil Procedure (1908) and the "Court or such officer as it appoints in this behalf" is the Court for purposes of receiving suits, and, by analogy, applications. The insistence in Order XXXIII, rule 3, Civil Procedure Code, is on "in person" not on "Court" as meaning "Judge himself." If necessary the learned Subordinate Judge may take up the petition again in the light of these remarks; but possibly subsequent circumstances have rendered further action unnecessary.

N.B.