

JANARDANA
RAO
v.
LAKSHMI
NARASAMMA.

answer the question that has been referred to us in the affirmative.

BEASLEY C.J.—I agree.

BURN J.—I agree.

A.S.V.

APPELLATE CIVIL.

Before Mr. Justice Ramesam and Mr. Justice Cornish.

1933,
May 8.

THE OFFICIAL RECEIVER OF RAMNAD AT
MADURA (FIRST DEFENDANT), APPELLANT,

v.

K. R. MUTHU A. R. ARUNACHALAM CHETTIAR
AND THREE OTHERS (PLAINTIFF, SECOND, THIRD AND
FOURTH DEFENDANTS), RESPONDENTS.*

Suits Valuation Act (VII of 1887), sec. 8—Madras Civil Courts Act (III of 1873), sec. 14—Conflict between—Former section to prevail—“Jurisdiction conferred by this Act” in sec. 14—Meaning of.

When section 8 of the Suits Valuation Act (VII of 1887) comes into conflict with section 14 of the Madras Civil Courts Act (III of 1873) the former section should prevail.

The words “jurisdiction conferred by this Act” appearing in section 14 of the Madras Civil Courts Act have the same meaning whether they have got to be construed for the purpose of institution of suits or for the purpose of filing appeals.

APPEAL against the decree of the Court of the Subordinate Judge of Sivaganga in Original Suit No. 113 of 1924.

T. M. Krishnaswami Ayyar and K. V. Ramachandra Ayyar for appellant.

C. S. Venkatachari for first respondent.

Second, third and fourth respondents were unrepresented.

OFFICIAL
RECEIVER
OF RAMNAD
v.
ARUNACHALAM
CHETTIAR.

The JUDGMENT of the Court was delivered by RAMESAM J.—In this appeal a preliminary objection is taken that the appeal does not lie to this Court. For the purpose of deciding the objection we have to see what the nature of the suit is. The suit was for a declaration that the properties which are the subject-matter of the suit do not belong to the second defendant but belong to the plaintiff and defendants 3 and 4 and that the first defendant had no power to bring them to sale as the properties of the second defendant and for a permanent injunction restraining the first defendant from selling them. Under the Court Fees Act, section 7 (iv), the plaintiff has got to value the injunction and pay court-fees *ad valorem* on it. Prior to the amendment of the Court Fees Act in 1922 the plaintiff might have given any valuation he liked. But the amendment prescribes a minimum valuation which is half the value of the land. Here the value of the suit properties is Rs. 8,000 and therefore the plaintiff had to value the relief at not less than Rs. 4,000. He accordingly valued it at Rs. 4,000 and brought the suit. The suit was originally dismissed. There was an appeal to the High Court by the plaintiff. No objection was then taken. The High Court reversed the decision of the District Judge and remanded the suit for fresh disposal. After the remand the Subordinate Judge of Sivaganga gave a decree to the plaintiff. Now the first defendant files this appeal.

RAMESAM J.

OFFICIAL
RECEIVER
OF RAMNAD
v.
ARUNACHALAM
CHETTIAR.
RAMESAM J.

The objection is taken that if the value of the properties is only Rs. 4,000 the appeal lies to the District Court and not to this Court and for that purpose section 8 of the Suits Valuation Act is relied on. On the other side section 14 of the Madras Civil Courts Act was relied on, and it is contended for the appellant that, where section 14 of the Civil Courts Act comes into conflict with section 8 of the Suits Valuation Act, it is the former that should prevail. As no rules have yet been framed by the Local Government under section 3 of the Suits Valuation Act, we cannot say section 14 of the Civil Courts Act has been repealed. But all the same we have got the fact that section 8 of the Suits Valuation Act says that in certain suits, namely, those other than suits under section 7, paragraphs v, vi and ix and paragraph x, clause (d), the value as determinable for the computation of court-fees and the value for purposes of jurisdiction should be the same. Whatever doubts one may entertain if the matter were *res integra*, we find that the matter has been considered by a series of authorities of this Court and the view taken has always been uniform. We think we are not justified in differing from the view, even if we think there ought to be a different construction, and it is not clear that we think that section 14 of the Civil Courts Act should prevail over section 8 of the Suits Valuation Act. In *Seshagiri Row v. Narayanaswami Naidu*(1) AYLING J. took this view. There was a Letters Patent appeal. SADASIVA AYYAR and PHILLIPS JJ. confirmed his judgment in *Narayanaswami Naidu v. Seshagiri Row*(2). The same view

(1) (1914) I.L.R. 38 Mad. 795.

(2) (1915) I.L.R. 39 Mad. 873.

was taken by MILLER and SUNDARA AYYAR JJ. in *Ramayya v. Ramaswami*(1). The same view was also taken in *Sundara Ramanujam Naidu v. Sivalingam Pillai*(2). In this last case one may say that the suit was one for possession and not a suit for mere specific performance. But if the suit is one for specific performance only, the decision supports the respondent. Some other cases have been referred to us but in these decisions section 14 was not referred to or discussed, for instance, a decision of mine in *Balakrishna Nair v. Vishnu Numbudri*(3) which on this account is not of much value. We are therefore inclined to follow the decisions first mentioned.

OFFICIAL
RECEIVER
OF RAMNAD
v.
ARUNACHALAM
CHETTIAR.
RAMESAM J.

It is next contended by the learned Advocate for the appellant that, even if one is to follow these decisions for the purpose of determining the forum at the time of the institution of the suit, still section 14 of the Civil Courts Act may be applied for the purpose of determining the Court before which the appeal should be filed. But this is making a distinction as to the meaning of the words "jurisdiction conferred by this Act" according as the question arises for the purpose of institution and for the purpose of appeal. We do not see any justification for making this distinction. Jurisdiction conferred by the Act was regarded as always one and, if a suit is to lie before a particular Court on the ground that the valuation for purposes of jurisdiction should be regarded as a certain amount, that should guide also the valuation for purposes of appeal. We cannot apply section 14 in one way for one

(1) (1912) M.W.N. 199.

(2) (1923) 18 L.W. 333.

(3) (1930) M.W.N. 509.

OFFICIAL
RECEIVER
OF RAMNAD
v.
ARDUNACHALAM
CHETTIAR.

purpose and in another way for another purpose. We think that this preliminary objection is well founded and the memorandum of appeal should be returned for presentation to the proper Court. The appellant will pay costs of this order in this Court. Costs on the half scale.

G.R.

APPELLATE CIVIL.

*Before Mr. Justice Curgenvven and Mr. Justice
Sundaram Chetti.*

1933,
April 18.

MUTYALA VIRAYYA (PLAINTIFF), APPELLANT,

v.

MAHABUB SUR FRAJA VANTU RAJAH PARDHA-
SARATHI APPA RAO SAVAYI ASWARA RAO
ZAMINDAR GARU AND TWO OTHERS (DEPENDANTS),
RESPONDENTS.*

*Hindu Law—Father's debts—Pious obligation of sons—
Scope of.*

The pious obligation of a Hindu to discharge the debts of his father is irrespective of the fact whether his father was or was not, at the time when he contracted the debts, the manager of the joint family or whether the joint family was or was not composed of persons other than the father and his sons.

APPEAL against the decree of the Court of the Subordinate Judge of Kistna at Ellore in Original Suit No. 84 of 1924.

V. Govindarajachari for appellant.

Ag. Advocate-General (P. Venkataramana Rao) for second and third respondents.

The JUDGMENT of the Court was delivered by CURGENVEN J.—The plaintiff, who appeals, sued

* Appeal No. 185 of 1926.