

APPELLATE CIVIL.

Before Mr. Justice Madhavan Nair and Mr. Justice Cornish.

1934,
July 27.

SONNAMMAL, PLAINTIFF,

v.

COIMBATORE MAHA JANA BANK, LTD., BY SECRETARY
NANJAPPA CHETTIAR AND ANOTHER, DEFENDANTS.*

Code of Civil Procedure (Act V of 1908), O. XXXIII—Petition for permission to sue in forma pauperis—Vakalat—Whether fresh vakalat required when permission granted and petition registered as a suit.

A person who filed a petition for permission to sue *in forma pauperis* under Order XXXIII of the Civil Procedure Code (Act V of 1908) engaged a pleader and gave him a vakalat in the usual form which did not specifically limit the appearance to the petition alone. The pauper petition was allowed and registered as a suit. On a question being raised as to whether a fresh vakalat to conduct the suit was necessary, a reference was made to the High Court.

Held, that the vakalat given in connexion with the petition must, when the petition becomes converted into a suit, be considered to have become a vakalat given for the purpose of the suit, unless the vakalat is distinctly confined to the pauper petition alone.

The "purpose" for which the vakalat was given in the first instance becomes changed when the nature of the petition gets changed by operation of law.

Parties were not represented by Counsel.
M. B. Jeddy as *amicus curiae*.

The JUDGMENT of the Court was delivered by
MADHAVAN NAIR J.—In this case a petitioner who filed a petition for permission to sue as a pauper under Order XXXIII of the Code of Civil Procedure engaged a pleader and gave him a vakalat

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in the usual form. The petition was allowed by the Court and was registered as a suit. The question arises whether the pleader should be given a fresh vakalat to conduct the suit or, in other words, whether the vakalat already given in connexion with the pauper petition would not be sufficient for the purposes of the suit also. The vakalat already given to the pleader, though it mentions "original petition", the printed word "suit" above the words having been scored out, does not specifically limit the appearance to the petition for permission to sue as a pauper only. By operation of law the petition to sue as a pauper becomes converted into a suit when it is allowed by the Court. In our opinion the vakalat given in connexion with the petition must, when the petition becomes converted into a suit, be considered to have become a vakalat given for the purpose of the suit, unless the vakalat is distinctly confined to the pauper petition alone. The "purpose" for which the vakalat was given in the first instance becomes changed when the nature of the petition gets changed by operation of law. We would answer the question referred to us accordingly.

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MADHAVAN
NAIR J.

K.W.R.
