

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :03.10.2016

CORAM

THE HONOURABLE MR. JUSTICE **M.DURAISWAMY**

Civil Revision Petition (NPD) No.2983 of 2016

1. M/s.Sankara College of Science and
Commerce, a Unit of Coimbatore
Educational and Cultural Foundation
Trust, rep.by its Managing Trustee
Mr.T.P.Ramachandran

2.T.P.Ramachandran

3. T.P.Vasanth Raman

4. T.V.Pattabiraman

5. T.R.Kalyanaraman

.. Petitioners

Vs

S.Martin

... Respondent

Petition filed under Section 115 of the Code of Civil Procedure against the order dated 01.09.2016 passed by the learned Principal District Judge, Coimbatore in OSCFR No.10845 of 2016.

For Petitioners : Mr.N.Anbazhagan
For Respondent : Mr.R.Ganesh Kanna

ORDER

Challenging the order passed in OSCFR No.10845 of 2016, dated 01.09.2016, on the file of the Principal District Court, Coimbatore, the plaintiffs have filed the above Civil Revision Petition.

2. By order dated 01.09.2016, the Principal District Court, Coimbatore returned the plaint filed under Section 92 of the Code of Civil Procedure [in short 'CPC'] stating that only original petition is maintainable and not the suit and it has further held that no leave was obtained by the plaintiffs prior to the filing of the suit under Section 92 of the CPC.

3. Mr.N.Anbazhagan, the learned counsel appearing for the petitioners/plaintiffs submitted that earlier the plaintiffs filed the suit before the Principal Subordinate Court, Coimbatore and also an application in I.A.No.316 of 2016 under Section 92 of CPC for obtaining leave, to file the suit. The Principal Subordinate Court, Coimbatore allowed the application and granted leave to file the suit. Thereafter, the Principal Subordinate Court returned the plaint stating that only the District Court has jurisdiction to entertain the suit, since pecuniary jurisdiction of the Subordinate Court is less. Thereafter, the plaintiffs presented the plaint before the Principal District Court, Coimbatore, which returned the plaint for the reasons stated above.

4. The learned counsel appearing for the petitioners also submitted that both the Subordinate Court as well as the District Court have jurisdiction to entertain the suit filed under Section 92 of the CPC and therefore, the plaintiffs should be permitted to represent the plaint before the Subordinate Court itself, for the reason that they have already obtained leave before the

Subordinate Court under Section 92 of the CPC. In support of his contention, the learned counsel relied upon the judgment reported in **2010(2) SCC 513 [Sri Jeyaram Educational Trust and Others vs. A.G.Syed Mohideen and Others]** wherein the Hon'ble Apex Court has held that the pecuniary limits mentioned in Section 12 of the Civil Courts Act, do not apply to suits under Section 92 of the Code. Further, the Apex Court has also held that both Subordinate Court as well as the District Court shall have jurisdiction to entertain the suit filed under Section 92 of the CPC.

5. Mr.R.Ganesh Kanna, the learned counsel appearing for the respondent has no objection for allowing the Civil Revision Petition.

6. In view of the submissions made by the learned counsel on either side, the order passed by the Principal District Court, Coimbatore in OSCFR No.10845 of 2016 dated 01.09.2016 is set aside. The revision petitioners are permitted to represent the papers before the Principal Subordinate Court, Coimbatore and on such representation, the said Court is directed to number the suit and decide the same on merits and in accordance with law.

7. Learned counsel appearing for the petitioners submitted that the parties have let in oral evidence before the Principal Subordinate Court and the matter was posted for arguments.

8. In these circumstances, the learned Principal Subordinate Judge, Coimbatore is directed to dispose of the suit, within a period of six weeks from the date of numbering of the suit.

9. With these observations, the civil revision petition is allowed. No costs.

03.10.2016

vj2

Index : Yes/ No
Internet : Yes

To

1. The Principal District Judge, Coimbatore.

M.DURAISWAMY,J.,
vj2

Civil Revision Petition (NPD) No.2983 of 2016

03.10.2016