

Raghava Chariar Vs. Raghava Chariar, Executor to the Estate of the Minor Vedantha Chariar

Raghava Chariar Vs. Raghava Chariar, Executor to the Estate of the Minor Vedantha Chariar

SooperKanoon Citation : sooperkanoon.com/782271

Court : Chennai

Decided On : Feb-03-1893

Reported in : (1910)20MLJ726

Appellant : Raghava Chariar

Respondent : Raghava Chariar, Executor to the Estate of the Minor Vedantha Chariar

Judgement :

1. The concurrent finding of both Courts that appellant has misappropriated Rs. 1,421 of the trust property is sufficient to support the decree for his removal from the office of co-trustee with plaintiff. There is evidence to support this finding and we cannot, therefore, interfere with the decision in second appeal.

2. It is objected on behalf of appellant that the property--the subject of trust--being admittedly over Rs. 20,000 in value, the District Munsif had no jurisdiction to try the suit. The lower appellate Court has treated the case as coming within the class of suits which are incapable of valuation and therefore accepted the value put upon the suit by plaintiff with reference to the amount alleged to have been misappropriated by appellant. We are of opinion that the value of the trust property ought to have been taken as a guide to the determination of the question of jurisdiction. The objection was taken both in the Court of first instance and in the

lower appellate Court. But under Section II of the Suits Valuation Act (Act VII of 1887) we are precluded from entertaining the objection unless we are satisfied that the under-valuation has prejudicially affected the disposal of the suit on the merits. The mere change of forum consequent on the under-valuation cannot of itself be treated as prejudicially affecting the disposal of the suit on the merits within the meaning of the section, for that is the very case premised and provided for by the section. Reading the section together with Section 578 of the Code of Civil Procedure, we consider that the words 'prejudicially affected the disposal of the suit on the merits' must be construed in the same way as they would be construed with reference to any error, defect or irregularity contemplated by that section. The effect of Section 11 of the Suits Valuation Act is simply to place over-valuation or under-valuation of suits on the same footing with other irregularities contemplated by Section 578) except that the objection must be taken either in the Court of first instance or in the lower appellate Court In the present case we do not consider that the under-valuation has prejudicially affected the disposal of the suit on the merits. We, therefore, refuse to entertain the objection to the jurisdiction.

3. The appeal fails and is dismissed with costs.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com