

1950

Present : Pulle J.GALAGODA, Appellant, and WIJESINGHE *et al.*, Respondents*S. C. 76—C. R. Kandy, 3,668**Rural Courts—Exclusive Jurisdiction—Scope of—Rural Courts Ordinance, No. 12 of 1945, as amended by Ordinance No. 13 of 1945—Sections 9 and 11.*

Where there is no Rural Court within the territorial limits of a Court of Requests, an action may be instituted in such Court of Requests if the cause of action arose within the local limits of the jurisdiction of that Court, even though if jurisdiction depends solely on residence of the defendant a Rural Court would have exclusive jurisdiction to try the case.

APPEAL from a judgment of the Court of Requests, Kandy.

H. W. Jayewardene, for the plaintiff appellant.

T. B. Dissanayake, for the 1st and 2nd defendants respondents.

Cur. adv. vult.

November 28, 1950. PULLE J.—

The question which arises for determination in this appeal is whether the learned Commissioner of Requests was right in holding that the subject-matter of the action was within the exclusive jurisdiction of the Rural Court. The plaintiff-appellant as Basnayake Nilame and trustee of Natha Dewale, situated at Kandy, instituted this action for the recovery of Rs. 159 as damages for the failure on the part of the two defendants respondents in the years 1946 and 1947 to render to the Dewale at Kandy the services due from them as paraveni nilakarayas.

Admittedly the two defendants reside outside the limits which constitute the territorial jurisdiction of the Court of Requests of Kandy. The first defendant resides at Kurunegala and the second at Wattedgama. If

jurisdiction depended solely on residence, then the Court of Requests of Kandy could not entertain the action and to reach this result it was not necessary to have recourse to the provisions of the Rural Courts Ordinance, No. 12 of 1945, read with the Village Tribunals Amendment Ordinance, No. 13 of 1945.

The contention on behalf of the appellant is that the cause of action was the failure to perform the services at Kandy. It being assumed that there is no Rural Court within the territorial limits of which the Dewale falls, the argument proceeds that the jurisdiction of the Court of Requests remains unaffected. I shall deal with this argument first and later consider whether there is any substance in the point relied on by the Commissioner that where a paraveni nilakaraya defaults in the performance of services it is for the trustee of the temple to enforce his claim for damages in the place where the nilakaraya resides.

In my opinion sections 9 and 11 of the Rural Courts Ordinance should be read as follows. If residence is the ground on which jurisdiction is pleaded, then the Rural Court will have jurisdiction ousting that of the Court of Requests within the limits of which that place of residence is situated. Similarly, if the place where a cause of action has arisen is the ground on which jurisdiction is pleaded, then the Court of Requests having jurisdiction over that place will be ousted by the Rural Court having jurisdiction over the same place. In reading section 11 exclusive jurisdiction should be understood in relation to a Court of Requests or a District Court whose territorial limits embrace the whole or part of the limits of a Rural Court. A different interpretation would lead to situations which could never have been in the contemplation of the Legislature. Suppose a creditor in Colombo has two debtors jointly and severally liable on a cause of action which has arisen in Colombo. Suppose, further, one of the debtors resides within the jurisdiction of a Rural Court in the Eastern Province and the other within the jurisdiction of a Rural Court in the North-Central Province, then in the interpretation contended for by the respondents the jurisdiction of the Court of Requests of Colombo would be ousted, and the creditor will have to seek his remedy by filing one action in one of the two Rural Courts or two separate actions, one in each Rural Court. Again, suppose in the present case the two defendants were residing at Kandy and the cause of action had arisen within the jurisdiction of a Rural Court sitting 200 miles away from Kandy, is one constrained to interpret sections 9 and 11 of the Ordinance to mean that the jurisdiction of the Court of Requests of Kandy was ousted in favour of the distant Rural Court? I am not prepared to place an interpretation on section 11 which would lead to these manifestly oppressive results.

Finally, I come to the question whether on the facts pleaded by the plaintiff the cause of action arose within the jurisdiction of the Court of Requests of Kandy. The learned Commissioner states, "In claims of this nature, the plaintiff must seek the debtors who live, according to his own plaint, in places outside the jurisdiction of this Court and within the jurisdiction of Rural Courts". If the learned Commissioner intended to find that the damages flowing from a breach of an obligation

must be sued for in the place where the obligor resides, then with respect, I cannot agree with him. The cause of action in the present case was the neglect to perform a duty at Kandy and that was sufficient to confer jurisdiction on the Court of Requests. *Vide* the case of *Pless Pol v. Lady de Soysa et al.* ¹ which was approved by the Privy Council ² in the same case.

I set aside the decree appealed from and remit the case for trial on its merits. The appellant will have the costs of appeal. All other costs will be costs in the cause.

Decree set aside.

