

1961

Present : Basnayake, C.J., and Sansoni, J.

E. P. SENEVIRATNE, Appellant, and THAHA, Respondent

*S. C. 368—D. C. Colombo, 21607/S**Jurisdiction—Cheque—Dishonour—Court where action should be instituted.*

The defendant, who was residing at Panadura, drew a cheque in favour of the plaintiff payable at the Panadura Office of the Bank of Ceylon. When the cheque was dishonoured at Panadura, the plaintiff instituted the present action in the District Court of Colombo for the recovery of the amount of the cheque.

Held, that the cause of action arose in Panadura and the District Court of Colombo had therefore no jurisdiction to hear the case.

APPPEAL from a judgment of the District Court, Colombo.

H. W. Jayewardene, Q.C., with *B. J. Fernando*, for Defendant-Appellant.

K. Shinya, with *Nimal Senanayake*, for Plaintiff-Respondent.

March 15, 1961. BASNAYAKE, C.J.—

The plaintiff instituted this action against the defendant for the recovery of a sum of Rs. 7,500. He pleaded that the defendant at Colombo within the jurisdiction of the District Court of Colombo by his cheque No. B 376588 dated 29th December, 1954, directed the Bank of Ceylon, Panadura Office, to pay to the plaintiff or bearer the sum of Rs. 7,500 for valuable consideration and the plaintiff became the lawful holder thereof in due course; that the plaintiff presented the said cheque for payment at the office of the said bank but the same was returned to the plaintiff with the endorsement of "stale cheque"; that due notice of dishonour thereof was given to the defendant; and that on the said cheque there is now justly and truly due and owing from the defendant to the plaintiff a sum of Rs. 7,500 which sum or any part thereof the defendant has failed and neglected to pay to the plaintiff though thereto often demanded.

Several defences were raised by the defendant in his answer but it is not necessary to deal with all of them except the one which refers to the jurisdiction of the court to try the action. The cheque is one drawn at Panadura on the Bank of Ceylon at Panadura. The learned District Judge has held that the District Court of Colombo has jurisdiction to hear the case. It is submitted on behalf of the appellant that the cause of action arose within the jurisdiction of the District Court of Panadura as the cheque was dishonoured at the Panadura Office of the Bank of

Ceylon. It is common ground that the defendant resides at Panadura within the jurisdiction of the District Court of Panadura and that the cheque was dishonoured at Panadura within the jurisdiction of that Court. The cause of action therefore arose in Panadura and the District—Court of Colombo has therefore no jurisdiction to try the action.

We therefore set aside the judgment of the learned District Judge and dismiss the plaintiff's action with costs in both courts.

SANSONI, J.—I agree.

Judgment set aside.
