

Present : Shaw J.

1921.

KOMALE *v.* PETHA *et al.*

291—*C. R. Anuradhapura, 10,379.*

*Jurisdiction—Action filed in Court of Requests—Land Rs. 20 in value—
No intention to evade the jurisdiction of Village Tribunal.*

Where an action has been commenced, which is on the face of it within the jurisdiction of the Court of Requests and not within the jurisdiction of the Village Tribunal, the Court of Requests has jurisdiction to hear the case, even although the value may not exceed the amount of the jurisdiction of the Village Tribunal, if it is of opinion that the valuation of the land by the plaintiff was not with the intention to evade the jurisdiction of the Village Tribunal.

SHAW J.—“It certainly appears somewhat startling that the intention of the plaintiff can affect the jurisdiction of the Court.”

THE facts appear from the judgment.

H. V. Perera, for the appellant.

J. Joseph, for the respondents.

1921,

May 6, 1921. SHAW J.—

*Komale
v. Petha*

In this case the plaintiff brought an action in the Court of Requests for a declaration of title to certain lands mentioned in the plaint. He valued the lands in the plaint at Rs. 25. Upon the case coming on for trial, it appeared that the plaintiff, some nine months before action was brought, purchased the lands for Rs. 20. This was brought to the attention of the Commissioner by the defendants' proctor. Thereupon the Commissioner said: "This brings it within the jurisdiction of the Village Tribunal. Parties are referred to the Village Tribunal. Costs divided." This is an appeal from his order. The first thing that I desire to point out is that the value of the lands is not necessarily the sum of money which the plaintiff gave for it nine months before, or, indeed, at any other time. People often buy land as well as other property for considerably under its true market value. There does not seem to me to be any sufficient evidence before the Commissioner on which he could find that the value of the property is not more than Rs. 20, and therefore that the case is within the jurisdiction of the Village Tribunal. But there is another point which may render it unnecessary for the Commissioner to go into the question of the value of these lands. It has been held in various cases in this Court that where an action has been commenced, which is on the face of it within the jurisdiction of the Court of Requests and not within the jurisdiction of the Village Tribunal, the Court of Requests has jurisdiction to hear the case, even although the value may not exceed the amount of the jurisdiction of the Village Tribunal, if it is of opinion that the valuation of the land by the plaintiff was not with the intention to evade the jurisdiction of the Village Tribunal. I refer particularly to the cases of *Carolis v. Siyadoris*¹ and *Pieris Appuhamy v. Ukkuwa*.² There are single Judge cases, and purport to follow the case of *Loku Banda v. Yahapela Veda*,³ which is a two-judge decision. It is not clear to me that this case decides any such question as has been imputed to it. I feel that I ought not to depart from the rulings that I have mentioned, and there are, I believe, other rulings to the same effect. It certainly appears somewhat startling that the intention of the plaintiff can affect the jurisdiction of the Court. In view of these decisions, I have no option but to set aside the order appealed from, and remit the case to the Commissioner of Requests with instructions to hear the case if he is of opinion that the plaintiff did not over-value the lands for the purpose of ousting the jurisdiction of the Village Tribunal, and in any case, before he dismisses the action, to take evidence on the present value of the land. The appellant is entitled to the costs of the appeal.

Set aside.

¹ 2 C.W.R. 81. ² 1 Wifewardens's Reports 23. ³ (1913) 15 N.L.R. 487.