

1963

Present : H. N. G. Fernando, J.

B. SOOTING and others, Appellants, and R. A. H. PERERA,
Respondent

S. C. 248 of 1961—C. R. Gampaha, 8040/A

*Rural Court—Exclusive jurisdiction—Burden of proof—Rural Courts Ordinance.
ss. 9, 11, 12.*

By section 9 of the Rural Courts Ordinance, read with section 11, the Rural Court has exclusive jurisdiction where the demand of a plaintiff does not exceed Rs. 100. The burden of showing that the claim comes within the jurisdiction of a Court of Requests lies on the plaintiff, and when he fails to discharge that burden the Commissioner should act under section 12 of the Rural Courts Ordinance.

APPPEAL from a judgment of the Court of Requests, Gampaha.

S. G. E. Rodrigo, for the Defendants-Appellants.

S. W. Jayasuriya, for the Plaintiff-Respondent.

March 19, 1963. H. N. G. FERNANDO, J.—

The Plaintiff in this action sued the Defendants for the owner's share of the yala-crop of a paddy field which had been cultivated for that season by the Defendants.

One of the defences taken in the answer was that the claim to a share of the produce was one which fell entirely within the exclusive jurisdiction of the Rural Court. By Section 9 of the Rural Courts Ordinance, read with Section 11, the Rural Court has exclusive jurisdiction where the demand of a Plaintiff does not exceed Rs. 100.

The question of jurisdiction was expressly put in issue at the trial. The first witness called by the Plaintiff was a former owner of this field. According to him the Maha and Yala yield together will be about 20 beras. He again said that during the yala season the yield would be about 12–15 beras and that one bera is worth about Rs. 7 or Rs. 8. It was common ground that the share rightly due to the Plaintiff was a half-share. Assuming, therefore, on the evidence of the Plaintiff's first witness that the crop for the season was 15 beras the maximum value of the share due to the Plaintiff would have been only Rs. 60. The Plaintiff also claimed the produce from eight coconut trees for the period February to October 1960. In his plaint he had valued the nuts at Rs. 65, but there was, in the evidence of three witnesses called for the Plaintiff, no estimate whatever as to the nature of the trees or the extent of the produce therefrom or the value of nuts in the locality.

It seems to me, therefore, that when the Plaintiff's case was closed the evidence fell completely short of establishing that the claim of the Plaintiff involved a sum exceeding Rs. 100. Indeed, I feel bound to observe that when the learned Commissioner ultimately gave judgment for the Plaintiff in this case he completely ignored the evidence and resorted to the much too facile expedient of taking figures from the plaintiff even though those figures were not even mentioned in the evidence of the Plaintiff's witnesses. The burden of showing that the claim came within the jurisdiction of the Court of Requests lay on the Plaintiff and when he fails to discharge that burden the learned Commissioner should have acted under Section 12 of the Rural Courts Ordinance.

The appeal is allowed with costs, and the decree appealed from is set aside. It will be open to the Plaintiff, if he so chooses, to institute proceedings in the Rural Court. The Plaintiff must pay to the Defendants the costs in the lower Court as well.

Appeal allowed.

