

APPELLATE CIVIL.

Before U Thein Maung, Chief Justice, and U San Maung, J.

SEI SHENG (APPLICANT)

v.

U THEIN (RESPONDENT).*

H.C.
1948

June 30.

Union Judiciary Act, 1948, s. 5—Conditions.

When the judgment of the Trial Judge is confirmed by the High Court, in order that an appeal may lie to the Supreme Court there must be two certificates granted—one to the effect that the amount or the value of the subject-matter in dispute in the Court of first instance and still in dispute on appeal was and is not less than Rs. 10,000 and the other, that the appeal involves some substantial question of law. As the value was admittedly less than Rs. 10,000 an appeal does not lie to the Supreme Court.

Leong for the applicant.

Dr. Ba Han for the respondent.

U THEIN MAUNG, C.J.—This is an application for a certificate under section 5 of the Union Judiciary Act, 1948. The application is made on the ground that the proposed appeal to the Supreme Court involves a very substantial question of law. However, in order that an appeal may lie to the Supreme Court, there must be two certificates granted by this Court, as the judgment and decree to be appealed from affirm the decision of the Court immediately below and it has been admitted that the case does not involve any question as to the validity of any law having regard to the provisions of the Constitution. Of the two certificates which are necessary for the purpose, one must be to the effect that the amount or value of the

* Civil Misc. Application No. 25 of 1948 arising out of Civil First Appeal No. 49 of 1947 and Civil Regular Suit No. 14 of 1947 of the High Court, Rangoon.

subject-matter of the dispute in the Court of first instance and still in dispute on appeal, was, and is, not less than Rs. 10,000, or that the judgment, decree or final order involves, directly or indirectly, some claim or question respecting property of the like amount or value; and the other certificate must be to the effect that the appeal involves some substantial question of law. Now, even though the appeal may involve some substantial question of law as alleged by the petitioner, his learned advocate has to admit that the amount or value of the subject-matter of the dispute in the Court of first instance, and still in dispute on appeal, is less than Rs. 10,000, and that the judgment and decree do not, directly or indirectly, involve any claim or question respecting property of the like amount or value.

Under these circumstances, an appeal does not lie to the Supreme Court. So the application is dismissed with costs. Advocate's fee two gold mohurs.

U SAN MAUNG, J.—I agree.

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MAUNG, C.J.