
(1901) 08 MAD CK 0020
In the Madras High Court

Amdoo Miyan and Another

APPELLANT

Vs

Muhammad Davud Khan Bahadur

RESPONDENT

Date of Decision : 02-08-1901

Acts Referred:

Religious Endowments Act, 1863 — Section 18

Citation : (1901) ILR (Mad) 685

Hon'ble Judges : Bhashyam Ayyangar, J;Benson, J

Bench : Division Bench

Judgement

1. We concur in the decision of this Court in Venkatappayya v. Venkatapathi Appeal No. 230 of 1895 (supra p. 687) and must therefore hold

that the fact that no notice of the petition was given to the defendant (the presents petitioners) by the District Judge does not render his order

granting leave to sue liable to be set aside if the order was in accordance with law in other respects. We, however, find that leave was granted on

an unverified letter, apparently not presented in Court, enclosing a mahazarnamab, purporting to be from certain persons of the Mussalman

community of Kurnool. We think that the District Judge acted with material irregularity within the meaning of Section 622 of the CPC in treating

such a letter as an application u/s 18 of Act XX of 1863. Section 647 of CPC contemplates that certain formalities of procedure be observed even

in miscellaneous applications like the present, which are not suits. We think that an application u/s 18 of the Act XX of 1863 should be duly

verified and presented either in person or by pleader, as in the case of plaints.

2. We must therefore set aside the order of the District Judge with costs in this Court.