

(1938) 04 MAD CK 0011
In the Madras High Court

Gurunathaswami Koil by Manager Kodi P. Muthirulappa Pillai	APPELLANT
Vs	
Alangaram Pillai (died) and Others	RESPONDENT

Date of Decision : 11-04-1938

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 92

Citation : AIR 1939 Mad 594 : (1939) 49 LW 495 : (1939) 1 MLJ 517

Hon'ble Judges : Lakshmana Rao, J

Bench : Division Bench

Judgement

Lakshmana Rao, J.—The appellant claims to be the newly appointed trustee of the Gurunathaswami temple and the suit was instituted by

him for recovery of the movable properties of the temple including cash after taking an account of the trust money received by the respondent the

previous trustee who is stated to have been lawfully removed by the members of the community. The respondent pleaded that the suit was bad for

want of sanction u/s 92 of the CPC and the plea was upheld by the Courts below.

2. The question for determination is whether sanction u/s 92 of the CPC is necessary and as pointed out in a similar case in Venku Chettiar v.

Doraisami Chettiar (1921) 14 L.W. 38 which was followed by the Full Bench in Appanna Poricha Vs. Narasinga Poricha and Others, , Section

92 of the CPC governs only suits for the vindication of the rights of the public in public, charitable or religious trusts and not to suits by a trustee for

vindicating his right of management and getting possession of the trust properties. A suit by a trustee against another whom he alleges to have been

lawfully removed is outside the scope of the section even though it asks for an account of the trust money received and to the same effect is the

decision in (Kalluri) Lakshminarayana Vs. Kalluri Punnayya and Another, .
Sanction was necessary in the case in Jambulinga Pathan and Another

Vs. Akilanda Asari and Others, , as the suit was instituted on behalf of the public,
and the dismissal of the suit in this case for want of sanction u/s

92 of the CPC is unsustainable. The decree of the Courts below are therefore set
aside and the suit is remanded to the trial Court for disposal

according to law. Court-fee paid on the memorandum of appeal in the lower
appellate Court and here, will be refunded and costs up to date will

abide and follow the result.

3. Leave is refused.