

(1908) 03 MAD CK 0015
In the Madras High Court

K.A. Veeraraghva Tathachariar and Others	APPELLANT
Vs	
R. Krishnaswamy Thathachariar and Others	RESPONDENT

Date of Decision : 23-03-1908

Acts Referred:

Citation : 7 Ind. Cas. 900

Hon'ble Judges : Munro, J;Boddam, J

Bench : Division Bench

Judgement

1. This suit is brought u/s 539 and Section 30, Civil Procedure Code, for a declaration that a scheme of management of a temple is binding, and, in the alternative, for the settlement by the Court of a scheme and for the appointment, in the meanwhile, of a Receiver.

2. Though there are various allegations made against the Dharmakarthas, there is no application for their removal. At first, on the filing of the suit, an application was made for a Receiver pending the suit, and a Receiver was appointed temporarily until notice had gone to the defendants to

show cause against the application. On the application coming on, it was objected for the defendants that the Court had no jurisdiction u/s 503,

Civil Procedure Code, to appoint a Receiver, as the temple property was not the subject of the suit or under attachment. The District Judge

thereupon dismissed the application and this appeal is now brought against his order.

3. The subject of the suit is, a scheme for the management of the property of the temple and, in our opinion, the property of the temple is,

therefore, the subject of the suit within the meaning of the words in Section 503, Civil Procedure Code. The whole aim and object of the suit is to

regulate the collection and distribution of the property of the temple and even though there is no application for the removal of the Dharmakarthas

(in which case there can be no doubt that the Court would have power to appoint a Receiver pending the appointment of fresh Dharmakarthas to

take charge of the property of the temple) the subject of the suit is the same in both cases, namely, the property of the temple.

4. In these circumstances we must set aside the order of the District Judge and adjourn the case for the question of the person to be appointed

Receiver to be heard and determined, till the 6th February. Costs will be reserved.

5. This appeal again coming on for hearing this day dated 23rd March 1908 after adjournment as per above order of the Court.

6. We confirm the appointment of the Receiver. The appellants are entitled to costs in this and in the lower appellate Court.