

(1912) 07 MAD CK 0025
In the Madras High Court

Karayar Condly Puthupurayil Cheria Chirikandan and Others	APPELLANT
Vs	
Aylliath Kushikath Krishna Nambiar and Others	RESPONDENT

Date of Decision : 19-07-1912

Acts Referred:

Citation : (1914) 27 MLJ 690

Judgement

1. The plaintiffs in this case sue to recover certain lands held by defendants Nos. 1 and 2 with arrears of rent. They are the holders of a melcharath from the Moppillah tarwad governed by the Marumakkathayam law. At the time of the melcharath the land was in the possession of 1st and 2nd defendants on a lease for 5 years granted by the 3rd defendant under a power of attorney from the karnavan. Only 3 years of the lease . had expired, but the karnavan cancelling the power of attorney granted to the 3rd defendant executed a melcharath in plaintiffs favour for a period of 5 years commencing after the expiration of the previous lease. Defendants Nos. 1 and 2 contended that they are now holding under a new lease granted by the 3rd defendant after he became the Karnavan and that the melcharath in plaintiff's favour is invalid. The 3rd defendant supports their contention. The District Munsif held that the previous Karnavan had no right to grant the melcharath, but, on appeal, the District Judge reversed the Munsif's decision and passed a dectee in plaintiff's favour. The District Judge observes:--"" To grant a melcharath is an ordinary incident of a Karnavan's authority and quite within his powers."" He cites no authority in support of his position. It is the right and duty of the Karnavan for the time being to decide what arrangement should he made for the cultivation of. the family lands and whether the lease in favour of any tenant should

be renewed at the expiration of the period. Here, the Karnavan two years in advance of the expiration of the prior lease, executed a melcharath in plaintiff's favour. No justification has been pleaded for such an Act; It is not alleged that there was any necessity for doing so, or that the tarwad derived any benefit from the transaction. It is impossible to countenance the proposition that the Karnavan for the time being can tie down the discretion of those that are to succeed him in the management by granting leases of family lands,, when there is absolutely no reason for doing so, and the lands are being held by. tenants, on, leases which are still in force We must, therefore, hold that the plaintiff's title under the melcharath is not binding on the tarwad. We reverse the decree of the District Judge and restore that of the District Munsif with costs both here and in the Lower Appellate Court.