
(1958) 01 MAD CK 0031

In the Madras High Court

Case No : Civil Revision Petition No. 1549 of 1956

Kathaperumal Pillai

APPELLANT

Vs

Rajendra and Another

RESPONDENT

Date of Decision : 17-01-1958

Acts Referred:

Citation : AIR 1959 Mad 409 : (1958) 2 MLJ 183

Hon'ble Judges : Panchapakesa Ayyar, J

Bench : Single Bench

Advocate : K. Raman, for the Appellant; K.S. Naidu and V.S. Gopalaratnam, for the Respondent

Final Decision : Dismissed

Judgement

Panchapakesa Ayyar, J.—This is a petition filed by one Kathaperumal Pillai, the plaintiff in S. C. S, No. 469 of 1956, on the file of the

District Munsif of Tiruvarur, for revising the judgment and decree of the learned District Munsif granting a decree only against the first defendant

and dismissing the suit as regards defendants 2 and 3, his brothers.

2. The facts were briefly these. Kathaperumal, the petitioner, advanced Its. 240 on 20-8-1954, to the first defendant, the manager of the joint

family consisting of three brothers and mother, for the marriage of the first defendant, who had reached the age of 25, and had decided to marry

and had decided further that he should marry in the self-respect fashion without the usual religious ceremonies.

As the sum was not repaid, the petitioner sued all the three brothers, the three defendants for recovering Rs. 266-3-0 the amount lent with interest

thereon. Defendants 2 and 3 contested the suit, stating that they were not

bound to pay the suit amount, and that the first defendant alone would be liable for it the entire amount having been spent for his marriage and there being no need to spend a pie more than his share in his family proper-lies on his marriage.

They added the marriage was also celebrated in self-respect"" fashion, and that they strongly objected to it, and that the Dharmasastras providing for marriage expenses would not apply to such self-respect marriages, and that these marriages should also be cheap. The learned District Munsif, who was a Muslim perhaps not well-acquainted with Hindu joint families, held that the three brothers would not form members of a joint Hindu family because they lived and worked in different places, and owned only a joint family house in common, and had by accident not effected a partition.

He dismissed the suit against the defendants 2 and 3, though without costs, on the ground that the first defendant alone derived benefit, by his marriage, and his share was ample for such a purpose, and there was no need to make the other two brothers contribute towards it.

3. I have perused the records and heard the learned counsel on both sides. Mr. Raman, learned counsel for the petitioner urged that the learned District Munsif was wrong in holding that the three brothers were not members of a Hindu joint family simply because they lived and worked in different places, and owned only a house in common, and had by accident not effected a partition.

Mr. K. S. Naidu. learned counsel for defendants 2 and 3, who alone contested the suit, the first defendant having remained ex parte, did not contest this contention of Mr. Raman, as indeed it could not be contested. But he urged that on merits there was no case made out for granting a decree against defendants 2 and 3. Firstly, he urged that the marriage of an adult male Hindu, of the right age of 25, and with self-respect sentiments like the first defendant, ought to have been celebrated at his own expense from his own share, and that there was no warrant whatever for making the shares of defendants 2 and 3 in the joint family house, the only joint family property, liable for such a purpose.

The marriage of a daughter of a Hindu has been held to be far more obligatory than the marriage of a son. Even such a marriage has to be

celebrated by the incurring of only expenses within reasonable limits. For the marriage of an adult man a like this, it will be unthinkable to spend

more than his entire share in the family property and saddling the share of the other brothers, who have to meet the expenses of their own

marriages, and who have never been parties to the promissory note which was executed only by the first defendant.

It is not even the case of the petitioner that he looked to defendants 2 and 3 also for payment, or that defendants 2 and 3 asked him to go ahead

with the loan, stating that they too will be liable for it. The petitioner got a decree against the first defendant and his interest in the family house, and

other properties if any. He cannot in reason ask for a decree against defendants 2 and 3. The marriage was said to be a self-respect marriage and

should not have been celebrated on an extravagant scale.

There is no doubt, no absolute standard for extravagance, as urged by Mr. Raman, but it is measured with reference to the family property. When

the first defendant had only a one-third share in the joint family house as his sole property, where was the reason for him to spend anything more,

on his marriage? . Even to spend his entire share in the family property on his marriage, without reserving anything for the expenses of the

household after marriage, sounds imprudent. But that is the first defendant's own lookout. Anyway, defendants 2 and 3 were rightly held by the

lower court to be not liable for this debt.

4. The second ground urged by Mr. K. S. Naidu, namely, that the marriage was a self-respect marriage, is not relevant. Though the Dharmasastras

never speak of self-respect marriages, any valid marriage will be equal to any other valid marriage for purposes of making provision from joint

family funds, wherever it can be indented upon. Indeed, Kautilya, in his Arthashastra has said 2200 years ago, that any marriage approved by any

custom of a community, and not injurious to any others must be approved by the State, and held to be a valid marriage.

So nothing turns on this marriage being a self-respect marriage or Vedic Marriage, or a caste marriage celebrated in orthodox fashion.

5. It follows that this civil revision petition deserves to be dismissed, and it is hereby dismissed, but, in the circumstances, without costs.