

(1915) 12 MAD CK 0081
In the Madras High Court

Kupparazu Venkatasubbiah and Another	APPELLANT
Vs	
Murugula Shaik Silar Sahib	RESPONDENT

Date of Decision : 22-12-1915

Acts Referred:

Citation : 32 Ind. Cas. 947 : (1916) 3 LW 157

Hon'ble Judges : Moore, J; Coutts Trotter, J

Bench : Division Bench

Judgement

Coutts Trotter, J.—The plaintiff in this case was an inamdar entitled to a share in certain lands in Kandukur. The inam was granted to the plaintiff and several others on condition of their providing water for the use of travellers passing through that place. Certain of the inamdars neither the whole nor apparently the majority, have purported to lease the whole of the inam lands for 40 years to 1st defendant, but they neither obtained the consent of the plaintiff nor is it shown that he knew of or assented to it subsequently. The first Court gave him a relief to this extent; it declared the lease which the defendants had executed not to be binding on the plaintiff's own share of the lands. But the plaintiff was not satisfied with that, and proceeded to claim that he was entitled to a decree declaring the lease to be absolutely void as a whole and further declaring that in consequence he, along with such other inamdars as had not been the parties to the lease, was entitled to possession of the property. He endeavours to support this claim by contending that the inam grant in this case created a public charity and that the inamdars ought to be supposed to be the trustees administering that public charity. I suppose it will follow from that that the land will be inalienable; at any rate it is quite clear that an unauthorized lease of a land devoted to a public charity would not pass any portion of the land at all. Speaking for myself I regard the suggestion of a public trust in this case as extravagant, and it seems to me to be an ordinary case of an ordinary service inam with certain duties attaching to the holders of the inam, which duties no doubt in this case tend to the benefit of the general public, just as the duties of an archaka of a temple tend to the benefit of any of the public who may frequent

the temple. It has been clearly held in this Court in *Sriranga Charriar v. Pranatharthihara Charriar* 30 Ind. Cas. 74 that an inam granted to temple archakas on condition of their performing their temple duties is not a religious trust for public purposes at all. So here we are of opinion that although the land no doubt was resumable if the services were not performed and although the services may be of benefit to the public, that does not make the grant a grant for charitable uses. I am, therefore, of opinion that the Subordinate Judge was wrong in making the order he did and the relief granted to the plaintiff must be confined to the relief given in the Court of first instance, and the appeal must be allowed to this extent with costs here and in the lower Appellate Court. The plaintiff will, of course, be entitled to retain the costs allowed to him by the first Court.

Moore, J.

2. I agree.