
(1912) 11 MAD CK 0026
In the Madras High Court

Lakshma Ammal and Another

APPELLANT

Vs

Tyagaraja Mudaliar and Others
Tyagaraja Mudaliar and
Others Vs Lakshma Ammal and Another

RESPONDENT

Date of Decision : 27-11-1912

Acts Referred:

Citation : (1913) 24 MLJ 450

Judgement

1. In this appeal, the scheme is objected to on two grounds. Objection is taken to paragraph 6 of the decree in which it is said that the jewels of the temple shall be kept in the joint custody of the Dharmakartha and the Gurukkals of the temple, and the objection is that the Gurukkals should not be allowed to have joint custody. We think however, without any reflection upon the Dharmakarta's trustworthiness or honesty, that it is desirable that in cases of valuable portable property the doable custody should be provided and subject to verbal modifications in the clause in order to make it clear that what is intended is that the jewels shall be kept in a box which shall be provided with two locks of different patterns, the key of one lock being with the Dharmakarta and the key of the other with the Gurukkal whose turn it is to do duty; subject to that, we think we ought to maintain that clause. Then objection is taken to Clause 9 of the decree which provides for the removal of the trustee. After hearing what the learned vakils had to say upon the question we have come to the conclusion that the best plan will be to adopt with slight alteration to fit the present case the paragraph which forms paragraph 13 of the Conjeeveram Temple scheme which is set out in K.A. Veeraraghava Thatha Chariar and Others Vs. T. Srinivasa Thatha Chariar and Others, .

2. The paragraph will run: ""Any two worshippers after obtaining the consent in writing of the Advocate-General of Madras or of the Collector of the District, may apply to the District Court for the removal of the trustee from office, and thereupon it shall be competent to the District Court to suspend such trustee pending inquiry and after giving notice to such trustee and to such other persons as it may consider necessary and after making due inquiry to remove the trustee from office"" and there being only one trustee in this case, we add a provision that when a trustee is suspended pending inquiry the District Judge may appoint a manager during the period of suspension and we maintain the sentence at the end of the paragraph in the decree of the Lower Court by which on the removal of the trustee the District Judge is given power to appoint another trustee in his place. It is alleged that the present trustee has a hereditary right of trusteeship. But the question whether that has been so, has not been gone into in the suit and we think it desirable to add to our decree a direction to the effect that the District Judge in making an appointment of a trustee shall have regard to any hereditary claims which may be advanced before him, and to provide that from any order made by him removing a trustee or appointing a trustee an appeal may be preferred to the High Court. Each party will bear his own costs.

3. A.S. No. 205 of 1910:--In this appeal Mr. Rangachariar asks us to appoint a Board of control or supervision on the trustee. The District Judge, instead of appointing a committee of the kind suggested, has provided that for certain purposes two persons shall be nominated by the court to act with the Dharmakartha i.e. for the purpose of taking an inventory of jewels etc., provided in paragraph 4 of the decree, to be present at the opening of the Kanikai box (paragraph 5 of the decree) and to sign the book, to countersign the inventory book (paragraph 7 of the decree) and be present at the opening of the Hundis (paragraph 8 of the decree) and sign the accounts of the collection. We think that it will be sufficient if two persons be nominated by the court as designed by the District Judge but that it is desirable that these two persons should be nominated for a fixed period to avoid the inconvenience which might occur if every time their services are required an application is to be made to the District Court. We therefore decide to add to the scheme a direction that the District Judge shall once in a year appoint two respectable persons to perform for the

period of one year the duties described in paragraphs 4, 5, 7 and 8 of the decree, that both of these persons shall be required to sign the inventory

but that it is sufficient if one of them is present at the opening of the Kanikai box to sign the Kanikai account and at the opening of the Hundi box

and to sign the collection account. The present scheme contains provisions that Kanikai and Hundi boxes are to be sealed with their seals and

these provisions will be maintained. The scheme will have to be modified accordingly. We think each party should bear his own costs.