

(1911) 11 MAD CK 0061
In the Madras High Court

Malappurath Paramadhathil Narayana Nambi and Others

APPELLANT

Vs

Channazhi Krishnan Mossad and Others

RESPONDENT

Date of Decision : 14-11-1911

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 34 Rule 1

Citation : 13 Ind. Cas. 234

Hon'ble Judges : Sundara Aiyar, J;Ralph Benson, J

Bench : Division Bench

Judgement

1. The plaintiff, one of three Uralers of a temple, instituted the suit for redeeming a Kanom without making the other two Ularers parties. The defenant raised the objection of non-joinder of the other trustees, besides contesting the suit on the merits. The pleas relating to the merits of the case have been decided in favour of the plaintiff, but we are of opinion that the suit was badly framed by the other Uralers not being made parties. Order XXXIV, Rule 1, Code of Civil Procedure, is quite clear on the point. It is contended that by a Jrarar entered into between three trustees, the plaintiff was entitled to the sole executive management at the time of the plaint and that the harar expressly authorised the executive trustee for the time being to institute suits on behalf of the temple. The effect of such a karar has been fully explained in the judgn9nfc of this Court in Ramanathan v. Murayappa 27 M.P 192. The karar does not deprive the other trustees of their office of trustee though the ordinary management is confided to one only. This being so the provision authorising one of several trustees alone to represent the temple in suits cannot be given effect to. The other trustees are certainly interested in the property sought to be redeemed and are necessary parties. The plaintiffs now ask that they may be made parties. We accede to this request. The decrees of the lower Courts are set aside, and the suit remanded to the Court of first instance for trial de novo after making the other Uralers defendants in the suit. The plaintiff must make the necessary amendment of the plaint within two weeks after the order reaches the Court. The plaintiff must pay all costs of defendants Nos. 2 and 4 up to date.