

(1908) 12 MAD CK 0005
In the Madras High Court

Mullath Tarwed Karnavan and Manager Katungi Velloti and Others APPELLANT

Vs

Mullath Unni Nambi alias Kun. Humi Velloti and Others RESPONDENT

Date of Decision : 18-12-1908

Acts Referred:

Citation : 4 Ind. Cas. 1128

Hon'ble Judges : Pinhey, J; Miller, J

Bench : Division Bench

Judgement

1. In our opinion the Subordinate Judge finds that Exhibit I under which the appellants claim their Anubhavam right is a forged document. He does

not say that he deems himself bound by the decision of this Court on that point, but as we understand his judgment, he accepts the reasons of the

learned Judges in that suit, and concurring with them pronounces Exhibit I and Exhibit II which depends on it to be unreliable. His judgment might

have been better expressed but we have no doubt that that is what he meant.

2. The appellants thus have not proved an Anubhavam tenure under the Zamorin and they have for a long series of years paid rent to the Para

Nambi. From this it may be inferred, as the Subordinate Judge infers, that they were tenants under the stani and it cannot be presumed that they

held on a permanent tenure, because a stani cannot be presumed to have attempted to create a tenure which he ordinarily would have no power to

create. The transactions between the Stani Rama Nambi and the Zamorin could not amount to more than an alienation of the property by the Stani

to the Zamorin and this could not bind succeeding Stanis; nor could the acknowledgment by Rama Nambi. of an Anubhavam tenure in the

Zamorin's tenants binds the succeeding Stanis." The Stains after Rama Nambi can repudiate the alienation and disregard the Anubhavam, and the

Stani has sued accordingly within 12 years of Rama Nambi's death to eject the alleged Anubhavam tenants. The possession of the tenants was

not, during Rama Nambi's life, adverse to the Jenmi whether the Jenmi was Rama Nambi or the Zamorin. But Rama Nambi collected the rent and

there is no evidence that he paid it to the Zamorin and it is probable that the arrangement was merely a fraud upon the Stani's successors and that

there was no intention of really creating or acknowledging a title in the Zamorin in which case the appellants remained the tenants of the Para

Nambi. However that be, there being no valid Anubhavam, the plaintiff is entitled to recover and the appeal must be dismissed with costs.