

(1893) 04 MAD CK 0009
In the Madras High Court

Muthevy Lakshimanrayanappa

APPELLANT

Vs

Muthevy Venkataratnam and Others

RESPONDENT

Date of Decision : 18-04-1893

Acts Referred:

Limitation Act, 1963 — Article 124

Citation : (1894) ILR (Mad) 395 : (1893) 3 MLJ 237

Judgement

1. Article 124 of the Limitation Act is not applicable as this is not a suit for possession of the hereditary office, but a suit by the existing karnam for

having declared void the appointment of 3rd defendant as karnam jointly with themselves. We observe that the appointment was made under the

orders of the Collector administering the estate on behalf of the Zamindar on the ground that the existing karnams did not discharge the duties of

their office with efficiency.

2. As regards respondent's contention that 3rd defendant was appointed as an additional karnam we find that 3rd defendant's father had been

karnam of the village and it was quite open to the landholder, in fact it was his duty, to fill up the vacancy caused by 3rd defendant's father's death

u/s 7 of the Regulation (XXIX of 1802). The faisal number of karnams cannot be reduced without the sanction of the Board of Revenue and the

omission to appoint a successor to 3rd defendant's father was contrary to the policy of that section. The appointment of 3rd defendant instead of

being open to objection was therefore merely in accordance with the requirements of the Regulation.

3. It is contended that 3rd defendant's right to the office was barred as his father had died ten years previously and he had also during the last ten

years of his life ceased to do the duties of karnam though his name was retained in the list of karnams. The question is not whether 3rd defendant's

right to claim the office is barred, but whether the Collector had no power to make the appointment.

4. The appointment of a stranger even by a Zamindar when a vacancy exists would be open to no objection on the ground of its not being made

within twelve years of the vacancy occurring and we fail to understand why the appointment of an heir should be open to objection on this ground.

5. We set aside the decrees of both the lower courts and direct that the suit be dismissed with costs throughout to be paid by plaintiffs (1st and

2nd respondents.)