

(1937) 03 MAD CK 0026
In the Madras High Court

Pazhangette Unnikanna Menon

APPELLANT

Vs

Karimkulangara tarwad karnavan Lakshmi Vayankara Amma's
son Kesavan Unni Nair and Others

RESPONDENT

Date of Decision : 15-03-1937

Acts Referred:

Citation : AIR 1937 Mad 842

Hon'ble Judges : Lakshmana Rao, J

Bench : Division Bench

Judgement

Lakshmana Rao, J.—This second appeal arises out of a suit for redemption of a kanom granted by the trustees of the Chengattor Ayyappan temple in favour of the tarwad of defendants 1 to 29 and the sole question for determination is whether the melkanom granted by plaintiff 2, one of the five trustees to plaintiff 1 is valid. The melkanom was not granted in consultation with the other trustees nor is it the act of the majority. It would therefore be invalid under the general law: vide *Kumban v Moorthi* (1911) 34 Mad 406, and the execution of renewals in favour of the original kanomdars by the other trustees independently of plaintiff 2 cannot possibly entitle plaintiff 2 to act by himself. The melkanom in question cannot therefore be upheld under the general law, nor does Section 76, Madras Hindu Religious Endowments Act empower the Endowments Board to authorize an alienation of temple property by persons not competent under the general law to deal with it. That section only invalidates alienations of the kind specified therein by competent persons unless sanctioned by the Board on the ground of necessity or benefit, and as pointed out in *S. Ramaswami Poosari Vs. The Madras Hindu Religious Endowments Board and Another*, , in which the powers of the Board u/s 18 of the Act as amended in 1930 were considered, the Board has no powers of interference with hereditary trustees of excepted temples, as in this case, in matters of internal management. The Act does not authorize the Board to ignore the existenee of hereditary trustees or supersede them, nor does Section 18 empower the Board to authorize an alienation of temple property by a person not competent to deal with it under the general law.

There was also no occasion for the exercise of any emergency powers and it follows that the Subordinate Judge was right in holding that the melkanom was invalid. The suit was therefore rightly dismissed and plaintiff 1 may enforce his claim, if any, in respect of the renewal fee for the melkanom in a separate suit. The second appeal therefore fails and is dismissed with costs of respondent 3. Leave is refused.