
(1954) 08 MAD CK 0018

In the Madras High Court

Case No : Second Appeal No. 2058 of 1949

Pulappatta Kuthiravattath Kottayil Nallappada Nair

APPELLANT

Vs

Chami Mannadiar and Others

RESPONDENT

Date of Decision : 13-08-1954

Acts Referred:

Limitation Act, 1908 — Article 142, 144

Citation : AIR 1955 Mad 177 : (1955) ILR (Mad) 1232 : (1955) 68 LW 94 : (1956) 1 MLJ 289

Hon'ble Judges : Rajamannar, C.J; Rajagopala Ayyangar, J

Bench : Division Bench

Advocate : C. Unikanda Menon, for the Appellant; K.V. Ramaseshan, for the Respondent

Final Decision : Dismissed

Judgement

Rajamannar, C.J.—This second appeal was first heard by Krishna swami Nayudu J. who considered it necessary that it should be heard by

a Bench in view of the important question raised in the case.

2. The appellant is the plaintiff in O. 6. No. 23 of 1945 on the file of the court of the Subordinate Judge of Palghat. He is the second stani, of

Kuthiravattath Swarupam. He succeeded to the stanom on 17-5-1942 on the death of one Appu Thamban. Appu Thamban had succeeded

Kunhunni Thamban in 1927 when the latter became the first stani.

The suit was for recovery of possession of certain items of property attached to the second stanoin which were outstanding on a kanom demise

with Anyappa Mannathil tarwad. The properties were alienated by Kunhunni Thamban by document Ex. D. 2, dated 28-1-1922, by way of

possessory mortgage in favour of one Kartyayani Amma. The appellant alleged

that the said alienation was not binding on him as it was not executed for any purpose valid and binding on the stanom.

There were two main defences, (1) that the alienation was valid and binding on the stanom, and (2) that the suit was barred by limitation. Both the trial Judge and the District Judge on appeal found that the alienation was not valid and binding on the stanom but that the suit was barred by limitation. They applied Art, 144, Limitation Act, to the suit.

3. The only question which falls for decision is whether the suit is barred by time. The material dates are 28-1-1922, the date of the execution of the impugned mortgage, 1927, when Appu Thamban became the second stanl in succession to Kunhinni Thamban, and 17-5-1942, the date on which the appellant became the second stani. The suit was filed on 2-6-1945. It was not contended before us that any article other than Article 144 applied to the case. The only contention of the appellant was that the respondents' possession must be deemed to have become adverse to him only on and from 17th May 1942.

On the other hand, the contention of the respondent was that possession became adverse from 1927 when Appu Thamban succeeded to the stanom. In support of the appellant's contention the decision in -- "P. V. Chattan Rajs v. Ramainvarma", AIR.1915 Mad 217 (A), was relied upon. Before we deal with that decision, it may be useful to set out certain facts relating to the nature of a stanom in Malabar, its main features and incidents.

4. The word ""stanam"" is of Sanskrit origin and means ""position"" or ""place"". It acquired a secondary and special meaning in Malabar, namely, a position of dignity, generally with property attached to the position for the maintenance of the dignity and for the fulfillment of the duties attached to the position. The holder for the time being of the position, is called the ""stani"". The specific property attached to the stanom passes with it to the holder for the time being. The office and property vest in the holder individually and not in his family. The succession to a stanom is generally determined, by seniority in age. It descends to the eldest male member of a family, or sometimes to the eldest member in a number of families together.

The estate taken by a stani in the stanom property is not absolute; he has no unlimited powers of disposition of the property, though he is entitled absolutely to the income accruing there from during his lifetime. He has, however, the power of creating a charge upon or alienating the stanom property, where such charges or alienation is necessary or beneficial to the estate. ""The stanamdar, however, represents the corpus of his stanom much in the same way as a Hindu widow represents the estates which have devolved upon her."" Sometimes, the position of a stani has also been likened to that of the holder of an impartible estate (P. B. Sundara Aiyar's Malabar and Allyasantana Law, pages 249 et seq; -- Venkateswara Aiyar v. Sekhari Varma", 3 Mad 384 (B); -- "Manavikraman v. Sundaran Pattar", 4 Mad 148 (C)).

Although the possession of a stani is analogous to that of a childless widow, in that both have a life interest, both represent the estate or inheritance for the time being and both have a disposing power only to a limited extent, the analogy does not extend to the estate taken by the reversioner.

Each male reversioner becomes under Hindu law the full owner when the reversion falls in, whereas the person that succeeds to a stanom takes the same qualified estate that his predecessor had"" ("Mahomed v. Krishnan", 11 Mad 106 (D)).

From the above features and incidents, it follows that an alienation made by one stani, which is not supported by legal necessity or benefit to the stanom, will not be binding on his successor, and if possession has passed into the hands of the alienee in pursuance of such alienation, the succeeding stani will be entitled to recover possession forthwith from the alienee. It also follows that the possession of the alienee will be adverse to the successor from the date of his succession.

5. In Patinharkara Vallabhan Chattan Rajah Avergal and Kuruvayil Kovilagath M.R. Ry. Vallavanathikara Vallabhah Vali Raja Avergal Vs.

Rama Varma alias Kolathoor 5th Rajah Moothaiyil Vallabhah Chattan Kovil Kuruvikul alias Mankata Kovilagath Vallabhan Chattan Kovil

Kuruvikal and Others and Rama Varma alias Kolathur V. Rajah Avergal styled Walluvanathudaya Kattunnen Moothayil Vallabhan Chathan Kovil

Kuruvikal alias Mankath Kovilagath Vallabhan Chathan Kovil Kuruvikal and Others, , the plaintiff brought a suit for a declaration that he was

entitled to the fifth stanom in the Walluvanad Swarupam from 1903 and the first defendant had no right to hold any of the five stanoms. The suit

was brought in 1909. The first defendant pleaded that the suit was barred by limitation and that he had acquired a prescriptive right, having been

for more than twelve years a stani. It was held by Ayling and Seshagiri Aiyar, JJ. that as the plaintiff's right to the stanom had accrued only in

1903, the suit was not barred. We are not concerned in this appeal with the question whether on the facts of that case the decision of the learned

Judges was right. There are, however, observations in the judgment of Seshagiri Aiyar J. who delivered the Judgment of the Bench which

undoubtedly, support the contention of the appellant. The learned Judge observed:

I must hold that any prescription acquired against a stani entitled to possession will only take away his rights to be in enjoyment of the property

and will not bar the right of the next person to claim" possession of the property when succession opens to him.

He thought that this conclusion followed from the analogy, between a stani and a widow. He referred to decisions in which it had been held that

when a third party acquired a prescriptive right against the widow in possession, the next life estate holder, the daughter, was not affected by the

acquisition of such right. Earlier in his Judgment, he had said:

I have already pointed out that the position of a Stani is analogous to that of a Hindu widow; and it is settled law that a reversioner or the next life

estate owner succeeding after the death of the widow is not bound to bring a suit during her lifetime for a declaration that the acts of the widow are

not valid beyond her lifetime. In the case of reversioners under the Hindu law (see -- "Veeraya v. Gangamma", 30 Mad 570 (E) and -- "Prosonna

Kumar Mookerjee v. Srikantha", 40 Cal 173 (F)), it has been held that they do not claim through each other. The same principle holds good in the

case of stanis. Each has an independent right to the office by being the senior in age when a vacancy occurs. Mr. Rosario referred to an

observation. In -- "Chiruvolu Punnamma v. Chiruvolu Perrazu", 29 Mad 390 (G), wherein it is said that succeeding Mahants and Malabar Stanis

have been treated as persons claiming through or under their predecessors, though in strictness they do not so claim. I do not think that this

observation can be said to be an authority for the position that stanis claim through each other.

6. Seshagiri Aiyar J. was right in his assumption that a succeeding stani is not in the position of an heir to his predecessor, undoubtedly he is right in

his conclusion. But with great respect, to the learned Judge, we are of opinion that he completely misunderstood the principle involved in the

comparison of a stani to a Hindu widow. Obviously, the analogy cannot be pushed too far. As pointed out in 11 Mad 106 (D), there is no

similarity between a male reversioner succeeding to a widow and one stani succeeding another stani. So far as succession goes, the correct

position is found stated in the decision in -- "Raja of Palghat v. Raman Unni", AIR 1918 Mad 675 (H). Wallis C. J. said:

A stanom, according to the customary law of Malabar, is descendible from one stanom holder to another in a peculiar line of succession, and it

appears to me each successive holder is in the same position as an ordinary heir succeeding on intestacy..... The fact that the law of the land

confers limited powers of disposition in one case and unlimited powers in the other case can make no difference.

That case related to a claim by a stani to recover a hereditary office of trustee of a temple and its properties attached to the stanom it was held that

the suit was governed by Article 124, Limitation Act, and adverse possession for over the statutory period of the office of trustee and the

properties of the trust as against a prior stani, was a bar to a suit by the successor to recover the same: Though the material Article in that case was

Article 124, it is clear that the same principle would govern the application of Article 144. Wallis C. J. repelled counsel's argument that the

previous holders of the stanom were not persons from or through whom the plaintiff derived his right to sue thus:

According to him each successive holder of the stanom who brings a suit falling under Article 124 or 144, can only be barred under these Articles

if there is possession adverse to himself for the requisite periods, as possession adverse to his predecessors cannot be taken into account not being

possession adverse to the plaintiff within the meaning of the Act. I am wholly unable to accept this contention.

7. It is of great significance that Seshagiri Aiyar J. himself who had delivered the Judgment of the Bench in Patinharkara Vallabhan Chattan Rajah

Avergal and Kuruvayil Kovilagath M.R. Ry. Vallavananathikara Vallabhah Vali Raja
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Vallabhan Chathan Kovil Kuruvikal alias Mankath Kovilagath

Vallabhan Chathan Kovil Kuruvikal and Others, , entirely agreed with. Wallis C. J.
That learned Judge went completely back on all that he had

said in his prior decision. The following extracts from his judgment demonstrate
this fact:

A very learned argument was addressed to us on the legal position and rights of
Malabar stanis. It has been stated by the highest authority that

their position is analogous to that of Hindu widows: 3 Mad 384 (B). I took the
same view in Patinharkara Vallabhan Chattan Rajah Avergal and

Kuruvayil Kovilagath M.R. Ry. Vallavananathikara Vallabhah Vali Raja Avergal Vs.
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Avergal styled Walluvanathudaya Kattunnen Moothayil Vallabhan Chathan Kovil
Kuruvikal alias Mankath Kovilagath Vallabhan Chathan Kovil

Kuruvikal and Others, . It does not follow from these decisions that the Stani is
bound by the same limitations as a widow is. It is true that like the

widow he holds his property for life; but beyond this, the analogy does not go.
There is no one who corresponds to the reversioner. The next in

succession is his own heir. The fact that in stanoms, the strict rule of
Marumakattayam succession is not followed is no reason for saying that the

successor is not the heir of the last stani..... The important pre-requisite in all
these cases is that the first and the other stanoms should all be held

by the members of the same family. I do not think that this customary rule of
succession offers any ground for the suggestion that each succeeding

stani is not the heir of his predecessor in office.

8. The learned Judge dismissed his prior decision with the remark that it related
to a different state of affairs altogether:

That was a cause in which the right to the stanom itself was in dispute and not to
any property or office which appertained to the stanom.

9. That was the ground of distinction. With great respect to the learned Judge, we are unable to perceive any distinction. Be that as it may, one

thing is clear beyond doubt, namely, that Seshagiri Aiyar J. unreservedly agreed with Wallis C. J. in holding that the successor to a stani is his heir.

Learned counsel for the appellant has not invited our attention to any decision since AIR 1918 Mad 675 (H), which has taken a contrary view.

10. Recently, Govinda Menon J. had to consider exactly the same, question as that which arises in this case -- indeed, the case itself related to the

same stanom -- and he came to the same conclusion as we have, namely, that as regards Imitation and adverse possession a succeeding stani is in

the position of a person who inherits in estate so that if the period of limitation has begun to run during the lifetime of a person who holds the

property, his successor in Interest will also have such period running against him. The learned Judge also adverts to Seshagiri Aiyar J. explaining

away his earlier observations in Patinharkara Vallabhan Chattan Rajah Avergal and Kuruvayil Kovilagath M.R. Ry. Vallavananathikara Vallabhah

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Chathan Kovil Kuruvikal alias Mankath Kovilagath Vallabhan Chathen Kovil Kuruvikal and Others, ".

11. As Appu Thamban succeeded to the suit stanom in 1927 and more than twelve years elapsed before he died on 17-5-1942, the possession of

the alienee had, become adverse to him from 1929 and alienee perfected his title long before the appellant became the second stani in succession

to Appu Thamban.

12. The courts below were right in holding that the suit was barred by limitation. The second appeal fails and is dismissed with costs.