

(1898) 02 MAD CK 0014
In the Madras High Court

Seshadri Ayyangar

APPELLANT

Vs

Nataraja Ayyar and Others

RESPONDENT

Date of Decision : 24-02-1898

Acts Referred:

Religious Endowments Act, 1863 — Section 14

Citation : (1898) ILR (Mad) 179

Hon'ble Judges : Arthur J.H. Collins, C.J;Shephard, J;Davies, J

Bench : Full Bench

Judgement

Shephard, J.—These are appeals by the plaintiff against the decrees in two suits brought by him against the same parties, being the members of the temple committee constituted under the Act of 1863. It seemed to us convenient to hear first the appeal in which the question of the plaintiff's dismissal from the office of trustee arose, and I will accordingly deal with that question first and afterwards with the question arising in the suit in which damages are claimed.

2. The plaintiff was appointed a trustee of the Srirangam pagoda on the 1st May 1892, and he assumed office on the 15th of the same month. On the 25th February 1893 a notice was addressed to him signed by three of the defendants--Nataraja Ayyar, Krishna Ayyangar, and Ramasami Chetti,--intimating to him that he was dismissed from the office of trustee and requiring him accordingly to surrender to a person named all the temple property in his possession. The Advocate-General, who appeared for the plaintiff-appellant, did not contend that it was beyond the power of the committee to dismiss one of the trustees appointed by them, but argued that no just cause was shown for the dismissal of the plaintiff. In the Court below numerous charges were framed against the plaintiff and they are dealt with seriatim by the District Judge, with the result of a judgment of acquittal in the appellant's favour except as to the last or seventh charge. We have considered the evidence as to the other charges and agree in the conclusion at which the Judge arrived. There remains only the seventh charge on the strength of which the Judge has considered the order of dismissal

to have been warranted. The judgment is not very explicit on the point, but the finding amounts to this, that the plaintiff was, in respect of his conduct subsequent to an order passed by the committee on the 29th December 1892, grossly insubordinate to the committee and that their final order of dismissal was accordingly right and proper. The order of the 29th December begins by stating that it is necessary that the plaintiff should be suspended from the duties of manager pending the inquiry into certain petitions, and after other recitals ends as follows: "You shall cease to do the devastanam duties from the date of receipt of this yadast. Further, you shall deliver charge of all proceedings and records connected with the devastanam, that are with you to T. Ratna Mudaliar Avargal, who is another manager, and report (that you have done so). You will be informed of the time when the inquiry into the petitions is to be commenced."

3. This order is signed by the same three persons who signed the subsequent order of the 25th February. The plaintiff's reply is contained in a letter of the 10th January, in which he questions the authority of the committee to pass such an order regarding himself and asks for copies of all papers. The order of the 29th December is followed up by a letter from Ratna Mudali and Anr. desiring him to forward to them the records of the devastanam, and again by a further letter from the same persons on the 21st January. To these two letters the plaintiff sends an answer, dated the 1st of February, in which he plainly gives his opinion that the committee were not justified in making their order of the 29th December.

4. On these three letters, that is to say, the letter to the committee and the two other letters, and the conduct of the plaintiff evidenced thereby, we are asked to find that a charge warranting the plaintiff's dismissal has been substantiated. We were referred to no other evidence in this connection. Undoubtedly the plaintiff denied the authority of the committee as asserted by them. As a matter of fact, however, he did not after the 29th December take part in the festival which was then in course of celebration. The Advocate-General's argument on behalf of the appellant was directed to showing that the plaintiff was within his rights in resisting the attempt of the committee to displace him from his office, and that the action of the committee was irregular in respect of the omission to allow the plaintiff an opportunity of explaining his conduct. The relations of the committee to the trustees appointed have to be determined by reference to the Act of 1863, taken with the Regulation of 1817. There is very little authority bearing on the question of the powers possessed by the committee over the trustees. The seventh Section of the Act provides for the appointment of committees "to take the place and to exercise the powers of the Board of Revenue and the local agents under the Regulation hereby repealed." On the other hand, Section 13 imposes on the trustees certain duties in the matter of accounts of their receipts and disbursements. The same Section directs the committee to require the production of such accounts periodically. The powers of the Board of Revenue, so far as regards the matter in hand, are declared in the second and third Sections of the Regulation. The 2nd Section says: "The general superintendence of all endowments in land or money granted for the support of mosques, Hindu

temples or colleges... is hereby vested in the Board of Revenue." The 3rd Section is as follows: "It shall be the duty of the Board of Revenue to take such measures as may be necessary to ensure that all endowments made for the maintenance of establishments of the description abovementioned are duly appropriated to the purpose for which they were destined by the Government or the individuals by whom such endowments were made." As was observed in *Venkatesa Nayudu v. Shri Shatagopa Swami* 7 M.H.C.R. 77 "the scope of the Regulation is the prevention of the misapplication of endowments and all its provisions are to be read with reference to that purpose." According to the decision in *Chinna Rangaiyengar v. Subbraya Mudali* 3 M.H.C.R. 334 it is within the power of the committee, as it was within that of the Board, to deprive a trustee of his office--subject, however, to the right of the trustee to have the grounds of deprivation examined and adjudicated upon by a Court of justice. If the result of the examination is to show that the trustee ought not to have been removed from his office, the act of the committee in removing him and appointing another in his stead goes for nothing and no order of re-instatement is required. So qualified, the proposition that the committee may dismiss a defaulting trustee amounts to very little. It amounts to no more than saying that their action in resolving on his dismissal and in procuring by peaceable means the substitution in his place of a new trustee is not illegal. It does not follow, as the District Judge seems to think and as was argued before us, that the committee is at liberty to take other measures, such as the Government or any other employer may take against its servants. The notion that the committee may exercise disciplinary powers over trustees appears to me alike unsupported by the provisions of the Act, and inconsistent with the position of a trustee having property vested in him and charged with the gratuitous performance of important public duties. His position is not that of a servant of the committee. He has what may be called a freehold in his office, and except for good cause shown he cannot be removed from it. According to the respondents' contention a trustee can be removed by the committee not only for proved misconduct on his part, but also on a mere allegation of misconduct and for the purpose of inquiry into it. This contention is certainly not supported by the case cited. By way of illustration I may put the case of the member of a Club whose conduct is impugned and who under the rules of the Club is liable to be expelled by a vote of the members. If the contention of the respondents is sound and the provision for expulsion involves the lesser penalty of suspension, it must follow that before any inquiry has taken, place and in anticipation of the final vote of the members the incriminated member may be excluded from the Club and from any enjoyment of the advantages which it offers. Such a proposition could not for a moment be accepted. Perhaps a better illustration is that suggested by the case cited in argument of the Municipal Commissioner deprived of his office by the Governor in Council *Vijaya Bagava v. Secretary of State for India* ILR 7 Mad. 466 . In that case the Act, under which the Government purported to proceed, provided for the removal of any Commissioner for misconduct or neglect of duty. It was held that this provision did not make the Government the Judges on a

charge of misconduct, but merely justified the removal of a Commissioner as to whose misconduct they could satisfy the Court. The security of tenure, which according to that decision the Commissioner had under the Act would have been entirely defeated, had it been held that the Government had by implication a power to remove him temporarily, not on account of proved misconduct, but for the purpose of inquiry into suspected misconduct. I think that the Advocate-General was right in saying that a so-called suspension is in point of law not distinguishable from a deprivation. A suspension during inquiry is indefinite in point of duration. There is no certainty that the inquiry will be concluded before the life of the subject of it is terminated. It might possibly be convenient that the committee should possess the powers which the respondents arrogated to themselves, but if the Legislature had intended to give them such powers, surely some provision would have been made for the discharge of the duties of the suspended trustee, for relieving him of responsibility for acts done during the period of his suspension, and generally for the preservation of the trust property during that period. It is clear that the committee during that period have no right to assume the charge of the property *Ponduranga v. Nagappa* ILR 12 Mad. 366 and no provision is made in the Act for the appointment of a temporary manager. Great difficulties would thus arise in the case of an endowment managed by a single trustee if the respondents' contention were adopted. In the absence of any provision for the suspension of a trustee from the ministration of his office, I am of opinion that the only course which the committee can adopt in cases of necessity is to file a suit and apply for the appointment of a Receiver. Had they done so in the present case and instituted a suit on the 29th December, whatever might have been the fate of the application for a Receiver, it is clear that the suit must have been dismissed. The committee cannot be in a better position because they attempted to take the law into their own hands and have been met by resistance on the part of the trustee. Being of opinion that the plaintiff's refusal to acquiesce in the order was lawful and not a neglect of duty or misfeasance on his part, I hold that the dismissal consequent on that refusal was not warranted in law.

5. As to the manner in which the plaintiff expressed himself, if that is material, I cannot see that it was intended to be so insulting or defiant as Mr. Sankaran Nayar would have us believe. In their own proceedings with regard to his communication the three committee men speak of the plaintiff as labouring under a mistaken notion as to the powers of the committee. In my view the mistake was on their side rather than on his, and the requests which he made in his answer of the 9th January were perfectly reasonable. What he asked for was particulars of the complaint made against him, and he was clearly entitled to them and to an opportunity of explaining his conduct before any further action was taken against him. It is not pretended that any such thing was done. The defendant, Nataraja Ayyar, who seems to have been the leading spirit on the committee, says that no inquiry was made into the plaintiff's case, that they dismissed him after his insolent letter, and that no notice was sent to him to

attend and furnish any explanation.

6. It is hardly necessary in my view to consider how this conduct on the part of the committee affects the merits of the case. Seeing that the Court may, if the evidence before it justifies dismissal, direct the removal of a trustee whether or not there has been any previous resolution to that effect passed by the committee, I am not sure that the omission to give the accused trustee opportunity to explain himself is material.

7. I base my judgment on the ground that the order of the 29th December was one which the trustee was not bound to obey, and that therefore there was no misfeasance or neglect of duty within the meaning of the Act. I should also be prepared to hold that, even if the mistake was on the side of the appellant and not on the side of the committee, it was an honest and excusable mistake on account of which in the interests of the pagoda it was not required that the appellant should be dismissed from office.

8. Disposing first of Appeal No. 23, I think the decree of the District Judge should be reversed, and that the plaintiff should have a decree in the terms of his plaint and also costs in this Court and below.

9. Coming to the other appeal in which damages are claimed, I have in my view of the law no other question to consider than that of the amount of damages. In this suit which was filed before the final order of dismissal was passed, the plaintiff claims an injunction and damages on account of the order of the committee passed on the 29th December. On the allegations made in the plaint I apprehend there can be no doubt that the appellant is entitled to some damages. The principal allegation is that the order complained of was illegal. As to that I have already expressed my opinion. But it is also alleged and was argued before us as a ground for awarding substantial damages that the order was made without reasonable or probable cause, and that some of the defendants were in making it actuated by feelings of personal spite against the appellant. It becomes, therefore, necessary to consider the circumstances which led up to the making of the order and the relation of the parties before the 29th December.

10. The plaintiff was, as I have said, appointed trustee on the 1st May 1892 (Exhibit A), and he took charge of the office a few days afterwards. Nataraja Ayyar was not a party to the appointment, but he admits that he knew that the plaintiff was applying for the office and that he knew of the appointment a few days afterwards. He admits also that he did not object to the appointment when it was first mooted. The first occasion when he openly took exception to it was on the 6th June, which is the date of a memorandum stating his objections to the removal of the defendant, Krishna Ayyangar, from the office and the substitution in his place of the plaintiff. There is a suspicious delay about the making of the protest which is not accounted for by Nataraja. It appears that this Krishna Ayyangar had previously held the appointment and resigned it on the 31st May 1891, in consequence of complaints made against him. Subsequently, on the

16th April 1892, he was re-appointed, but his appointment was cancelled on the 29th of the same month and at the same time it was resolved to appoint the plaintiff. Nothing appears to have been done by the defendant Nataraja by way of following up his protest of 6th June. About the time of the plaintiff's appointment two persons--Dorasami and Ramasami--were appointed trustees of another temple, the Lalgudi temple, within the defendants' circle. In this matter there seems to have been a difference of opinion between Nataraja and his fellow committeeman Vasudeva, as there was in regard to the appointment of the plaintiff. Vasudeva says Nataraja urged him to join in the removal of these two trustees but that he refused. I think there can be no doubt that this is true, for Vasudeva's evidence is supported by the minutes written by him and Nataraja in July 1892, and it is not contradicted except in a very general way by Nataraja. It appears from these minutes that the dispute had begun before the 6th of June. The end of it was that the two Lalgudi trustees were dismissed on the very day on which the plaintiff was dismissed. On the 27th June 1892 the Chetti, who had been a party to the plaintiff's appointment, died, and so till the 20th October the committee consisted of two persons only, viz., the defendants, Nataraja and Vasudeva. In the interval and indeed for some time afterwards there can be no doubt that the plaintiff's position as trustee was unquestioned. As late as the 19th November 1892 there is a yadast signed by all five members of the committee designating the plaintiff and his colleagues as managers of the temple and entitled to receive the Mohini, All this time, however, while in public the plaintiff was duly recognized, there can be little doubt that Nataraja privately entertained the idea of ousting him from office. He was only waiting for a convenient opportunity. After the instalment of the new committee, the first measure adopted as regards the plaintiff appears to have been the writing of a minute by the new committeeman Krishna Ayyangar. This minute, dated the 21st December 1892, deals with the case of the Lalgudi trustees, and also with certain petitions in which complaints had been made against the plaintiff. The minute concludes with the recommendation that the plaintiff should be immediately suspended, the main ground being that he is a Vadagalai, whereas the temple is a Tengalai one, and that disturbances are likely to take place during the festival. The defendant Ramasami agrees with this minute. Two days later, on the 26th, the defendant Nataraja expresses his concurrence. In his minute for the first time for more than six months he revives the objections raised by him in his memorandum of 6th June to the plaintiff's appointment. The fourth member of the committee--Krishnamachari--demurs to the recommendation of Krishna Ayyangar and advises that, before any order is passed, the plaintiff should be asked to explain the matters alleged against him. His minute is dated the 27th December. What was done between that date and the 29th when the order of suspension was issued, does not clearly appear. All we know is that the fifth member Vasudeva says he knew nothing of the minutes of his colleagues, nor of the order until after the date when the latter was issued. I think we may fairly assume that the throe persons who signed the order were aware that Krishnamaehari objected. to it and advised delay and that the other defendant

Vasudeva had never been consulted. I think we must also assume that the two defendants (for the defendant Ramasami Chetti is dead) approved of the terms in which the order was drawn up. Now, what are the matters charged against the plaintiff in this order? There are four heads. There is first the charge that he obtained the office of trustee by improper means--that is the matter on which, as already mentioned, Nataraja's minute dwells. Then there is the charge or causing loss of property and money to the devastanam. Next, there is the charge of conducting temple affairs so as to cause riots between Tungalais and Vadagalais, and lastly there is the charge with reference to what is called the Tidal festival. I have already said that these charges, which are included in those insisted upon by the respondents at the hearing, have not been established: by the evidence. We must take it that they are groundless charges, and consider whether Nataraja and Krishna Ayyangar took reasonable pains to ascertain, if they were true or whether they knew them to be groundless. The question was much discussed whether the matters mentioned in the order relating to the conduct of the festival were within the scope of the committee's authority, the committee being primarily concerned to see only to the preservation and proper disposition of the temple property. In my opinion, having regard to the language of the Act, the committee have no business to interfere in the internal management of the temple or in mere matters of ritual or ceremonial. Their interference with the trustee is unauthorized and improper save so far as it can be justified as necessary in discharge of the secular duties which the Act imposes on the committee. In considering the conduct of the committee, however, with reference to damages, I do not think this ought to be taken into account. I give the committee credit for being honestly mistaken, with regard to the scope of their duties.

11. The materials which they had before them when they wrote their condemnatory minutes were certain petitions, dated on various days in September, October and December 1892. The fact that not a single signatory of these petitions has been called to vouch for the statements made therein is suggestive of their character when it is remembered that the charges were not abandoned at the trial. The defendants have placed themselves in a dilemma. Either they did not examine the signatories, or they did examine them and found them wanting. Nataraja says that he did examine them, but as it appears that any examination which took place was after the 29th December, this fact is irrelevant except as throwing light on his subsequent conduct. Obviously, facts which came to the knowledge of the defendants after that date cannot be taken into account in considering what was the mental condition of the defendants on or before that date.

12. I will take first the charge regarding loss of property which, in my opinion, is the only charge on which the committee were entitled to take any action. Assuming that this charge refers to the gold dust alleged to have been improperly disposed of, I observe that it is not mentioned in the lengthy minutes written by Nataraja and Krishna Ayyangar before the issuing of the order. It

appears to be founded on a statement made in a petition, dated the 14th November 1892. Is it possible to believe that men of business and some education like the two defendants selected by a District Judge as competent to discharge important duties could have given credit to the mere statements of the petitioners, untested by examination and uncorroborated? If they had attached any weight to the charge, they surely would have dwelt on it in their minutes. It was urged on behalf of the defendants that the apprehension of a disturbance during the festival compelled them to take immediate action, and it is pointed out that Remasami Chetti, against whom no personal malice is charged, acquiesced in their view. Here again the grounds of the alleged apprehension are to be looked for in the vague-statements made in the petitions. There had been no disturbance during the first ten days of the Ekadasi feast. Ratna Mudali, one of the plaintiff's colleagues who seems to be fairly impartial, was equally responsible with them for the conduct of the festival. He does not appear to have apprehended any trouble and clearly the committeeman, who refused to join in the order of suspension, did not see any reason for immediate action. When we look at the dates, the date of Nataraja's protest, 6th June, the date of the October minute, the dates of the petitions, the date of the filling up of the committee, the 28th October, and the date of the order, it is difficult to avoid drawing inferences against the defendants. One inference I have already mentioned, viz., that the idea of ousting the plaintiff from office was secretly entertained by the defendant Nataraja throughout from the 6th June. Another inference I draw is that, whatever may have been the apprehension of the defendants, there was no sort of urgency and that there was a determination to deprive the plaintiff of the honours which he would have enjoyed during the last ten days of the festival. Possibly also the absence of the fifth member may have had something to do with the selection of the date. Before leaving the four charges I must say a word about the first relating to the alleged invalidity of the plaintiff's appointment. It is obvious that, if the appointment was invalid, that could be no ground for the summary action of the 29th December. But I think the prominence which is given to this matter throws considerable light on the conduct of the defendant Nataraja. Here is a member of the committee, who for months has acquiesced in the appointment of the plaintiff as trustee, and also even as late as the 19th November, publicly recognizes him as holder of the office, making use of facts well known to him all the time as a ground for depriving him of his office. I think there is good reason for saying that the real motive which actuated Nataraja was resentment against Vasudeva for having procured the appointment of his relative, the plaintiff, coupled, perhaps, with a sectarian aversion to them both as Vadagalais. One has only to read the petitions to see that the real gist of the complaint against the plaintiff was that he was a Vadagalai, and therefore out of place in a temple which, according to the petitioners, is a Tengalai temple. This is the complaint which is taken up by Nataraja in his first minute on the petition, 4th October 1892. The view expressed there is that as long as plaintiff and Ratna Mudali are trustees and Vasudeva is on the committee, there is no hope of things being conducted

properly in the temple. The same line is adopted by Krishna Ayyangar and the other committee-man. Krishna Ayyangar had in addition his own private quarrel with the plaintiff, for, as already mentioned, he had been superseded by him. Further, it is quite possible that bad feeling may have been created between them by the incident connected with municipal affairs in which they came into collision. It is worthy of note that Krishna Ayyangar has allowed all the evidence against him to go uncontradicted and refrained from going into the box. All that can be expected of the plaintiff is that on the one hand he should show there were no facts before the defendants on which fair and reasonable men with a due sense of their responsibility would take action against a trustee, and that on the other hand there were circumstances in the previous relations between himself and the defendants to account for the action of the latter. I think the plaintiff has shown that the rivalry between Nataraja and Vasudeva counted for something among the motives of the former's conduct. If, however, I am wrong in supposing there was any personal feeling on the part of Nataraja or Krishna Ayyangar, I am not sure that it makes much difference, because then the sectarian motive is the only one that remains, and the conduct of the defendants if so explained would hardly be less reprehensible than if it had been actuated by motives of personal dislike.

13. To sum up, I start with the proposition that, inasmuch as the order of the 29th was illegal, the plaintiff is anyhow entitled to some damages. I find that on that date the defendants had no materials before them on which a reasonable man of the world would have taken any decisive action, and that the defendants took no steps to test the accuracy of the statements made to them and in spite of the remonstrance of their colleague gave no opportunity to the plaintiff to explain matters. They required no evidence and listened to no defence. I observe that the plaintiff only and not his fellow-trustee, who with regard to some of the matters was equally responsible was selected for condemnation. I find in the history of the previous relations of the parties ample grounds for believing that hostile feelings were entertained by the defendants towards the plaintiff, and I observe that the charges against the plaintiff were persisted in to the end, although the defendants must have known that they could not substantiate them. I think there is no doubt that one of the main grounds for the proceedings of the defendants was the fact that the plaintiff was a member of the Vadagalai sect. On these findings I am of opinion that the plaintiff is entitled to substantial damages. If the action had been simply for defamation, the plaintiff, having regard to the inuendo which the allegations in the order of the 29th fairly bear, might justly have claimed substantial damages. The first two charges imputing to the plaintiff improper conduct in connection with his appointment and dishonest conduct in regard to the temple property are distinctly defamatory. But the defendants have done more than defame the plaintiff. They have also done their utmost to deprive him of an important office of trust and at a critical moment to rob him of the honours attaching to it. Taking all the circumstances into consideration I would award the plaintiff Rs. 1,000 by way of damages. Costs will

of course follow.

Davies, J.

14. The plaintiff was appointed to the office of permanent manager of the Srirangam devastanam on the 1st of May 1892 by two out of the three then existing members of the temple committee of the Tricbinopoly taluk. The present fifth defendant and one Thota Venkatachalasami Chetti, now deceased, were the two members who appointed the plaintiff. The other member of the committee was the first defendant who objected to the appointment on the ground apparently that the second defendant was a more suitable person to hold it than the plaintiff, who was not only a cousin of the fifth defendant who appointed him, but who belonged to the Vadagalai sect of the Vishnavites, while the temple he was managing was a Tengalai temple. The first defendant's protest was, however, in vain, as he was in the minority. The member Thota Venkatachalasami Chetti died soon afterwards, and on the 21st October 1892 his vacancy and two other vacancies that had existed for some time were filled up by the appointment to the committee of the second defendant, the ex-manager of the temple, to which plaintiff was appointed, and of the third and fourth defendants. Certain complaints having reached the committee, now composed of five members, of mismanagement by the plaintiff, a majority of three members out of five, i.e., the first, second and third defendants, resolved on suspending him pending enquiry into his conduct. This they did on the 29th of December 1892. The plaintiff demurred to the action of the committee, and though, it appears, he did not continue to conduct the services in the temple, he refused to deliver up the papers and the keys of the cash chest that he was in possession of as manager. Challenging the right of the committee to suspend him as they had done, he filed the first suit, the subject of Appeal No. 22, against the members of the committee for wrongful suspension and claiming damages therefor. In consequence of these proceedings on his part the three same members who had suspended him dismissed him from his office on the 25th of February 1893. The plaintiff then brought a second suit, the subject of Appeal No. 23, to declare his dismissal void. But in this suit he claims no damages. The District Judge has dismissed both the suits on the ground that there was nothing irregular in the order temporarily suspending the plaintiff and that his dismissal was justified by his insubordination to the committee. The appeals are based on the grounds that the suspension by the committee of the plaintiff pending enquiry into his conduct was illegal as being ultra vires, and that both as regards the suspension and the dismissal there was no good and sufficient cause. There is no question here whether the plaintiff was a trustee, manager or superintendent u/s 3 of the Act XX of 1863 or Section 4 of that Act. He was admittedly a nominee of the committee, and therefore was in the position of a trustee u/s 3 and not Section 4 of the Act. It was urged on his behalf, however, that the committee had no control over his management of the pagoda and that they had no power to suspend him pending an enquiry into his alleged misconduct. It was not contended that the committee could not dismiss him outright for proved

misconduct; but excepting this, it was claimed for him that he was pretty much in the independent position of an hereditary trustee u/s 4 of the Act. The first important question then that arises for consideration is what are the powers of the temple committee, (a) in regard to the control they can exercise in the management of the temples in which the nomination of the trustee is vested in them u/s 3, and (b) over the individual appointed to the office.

15. The learned Acting Advocate-General, who appeared for the plaintiff, would have it that the powers of the committee in regard to the first matter are limited to the power conferred in Section 13 of the Act to call for accounts, and that the committee have no voice in the internal management of the temple or still less in matters of ritual therein. If that be the case it is hard to understand why the members of the committee must, according to Section 8 of the Act, be persons professing the religion for the purpose of which the temple is maintained, or, to use the words of the Government Order, Exhibit KK, of 1841 "individuals professing the same faith"; because if their powers are limited to the examination and audit of the accounts of the various temples under their control, the work could be as well if not better done by the Accountant General and his staff without regard to their creed. The effect of upholding the view put forward would be to reduce the temple committee to a mere nonentity, whereas the plain object of their appointment was to invest them with all the powers which the Board of Revenue used to exercise. The history of the matter shows that the powers of the Board of Revenue were absolute and unlimited, being in fact their exercise of the sovereign power of Government which was conferred on the Board of Revenue by the Government by Regulation VII of 1817. It is those powers which have now devolved upon the committee who by force of Section 7 of the Act XX of 1863, "were to take the place, and to exercise the powers, of the Board of Revenue and the local agents" under that Regulation. "By the passing of the Act all the powers relating to the superintendence and management of religious establishments which has been vested by the Regulation in the Board of Revenue and the Collectors throughout the country, were completely determined; and either the District Committees appointed under the Act or the trustees, managers, or superintendents referred to in Sections 4, 5 and 6 became entitled to the possession and management of all religious endowments, the former of all those of the class described in Section 3, and the latter of all within the description in Section 4" Per SCOTLAND, C.J., in the case of *Jusaghcric Gosamiar v. The Collector of Tanjore* 5 M.H.C.R. 334. Sections 2, 3 and 15 of the Regulation VII of 1817 show that it was the general superintendence of all endowments for the support of temples that was vested in the Board of Revenue, that it was the duty of the Board of Revenue to take such measures as might be necessary to ensure that all such endowments were duly appropriated to the purpose for which they were destined, and that it was the sole object of the Regulation to provide for the due appropriation of the endowments agreeably to the intent of the grantor. For the proposition that these functions were the delegated functions of Government as the sovereign power, there is the direct

authority of the Privy Council in the Rameswaram pagoda case in the Ramnad zamindari--see *Rajah Muttu Ramahnga Setupati v. Perianayagum Pillai* L.R. 1 IndAp 209 from which I take the following extracts (pages 232 to 235):

16. "It will be convenient to consider what powers the Board of Revenue and the Collectors possessed, or de facto exercised in relation to religious houses. The proceedings upon the accession of Venkatachellam, above described, took place before Regulation VII of 1817 was passed. But it is evident that before that Regulation the British Government, by virtue of its sovereign power, asserted, as the former rulers of the country had done, the right to visit endowments of this kind and to prevent and redress abuses in their management. There can be little doubt that this superintending authority was exercised by the old rulers... It appears, therefore, to be highly probable that the Setupatis in the days of their power exercised control over the pagoda, not, however, in virtue of any proprietary right of patronage, but as the rightful or de facto rulers of the district. The powers they enjoyed as sovereigns, whatever they may have been, have now passed to the British Government... That the new rulers, at an early date, exercised a controlling supervision and authority over the temples very clearly appears from a letter written in 1803 by the Board of Revenue to Mr. Hurdis, the Collector of Madura. It is abundantly clear from this letter that long before Regulation VII of 1817 the British Government not only assumed the power to superintend the management of the property and affairs of the pagodas throughout the Peninsula, but exercised its authority through the agency of the Collectors. The preamble of the Regulation of 1817, after stating that large endowments had been granted by former Governments as well as by the British Government and individuals for the support of temples, and that the produce of such endowments were in many instances misappropriated, declares it to be "the duty of the Government to provide that all such endowments be applied according to the real intent and will of the grantor." It then enacts that the general superintendence of all endowments should be vested in the Board of Revenue and prescribes the duties to be performed by them to prevent misappropriation of the funds. It also authorises the Board to appoint local agents, and declares that the Collector of the district shall be ex-officio one of such agents... [It is thus established that at an early date the power of superintendence was entrusted by the Government to the Board of Revenue and the Collectors. The Regulation, in fact, merely defined the manner in which that power was thenceforth to be exercised." Similar observations were made by this Court in an earlier case *Ramiengar v. G. Pandarasannada* 5 M. H.C.R. 53 . The learned Judges, SCOTLAND, C.J., and INNES, J., say: "The duties of superintendence and the proper appropriation of the endowments of Hindu and Muhammadan temples and religious establishments, of the preservation of the structures of such temples and establishments, and of the management of their affairs, through trustees or managers, were without doubt, we believe, exercised by the officers of the Local Government indiscriminately long before the Tanjore territory and temples were assumed by the Government, and in 1817 the general

management of all endowments of religious establishments in this Presidency, as also the duty of seeing that the trustees or managers of such establishments were properly qualified and duly appointed were made without exception, a legal obligation on the Board of Revenue and their local agents by Regulation VII of that year." The complete powers thus entrusted to the Board of Revenue were henceforth exercised by them up to the year 1841, when, according to the judgment in the case just referred to (page 59) "the Government, it appears, became in 1841 strongly influenced by conscientious, moral and religious scruples, and considering that they were at liberty in their executive capacity to divest themselves of the duties and responsibilities imposed by law in connection with Hindu and Muhammadan religious establishments, they determined that all duties and trusts, excepting the management of lands attached thereto, should be left finally and completely in the hands of properly qualified individuals." Exhibit KK, in the present case, of the year 1841 is evidence of the fact just stated, namely, that the Government in that year resolved to relinquish all interference with native temples both in the internal arrangements thereof and the administration of their revenues, reserving to themselves only the managements of the lands endowed. It is therefore evident that, from the year 1817 up to 1841, the Board of Revenue had the fullest control over temple affairs including even the internal arrangements of the institutions. They exercised these powers over both classes of religious establishments as distinguished now in Sections s 3 and 4 of the Act XX of 1863. I quote again from the judgment in *Ramiengar v. G. Pandarasannada* 5 M.H.C.R. 53.: "The recitals and enactments too of Act XX of 1863 show that the two classes of temples and religious establishments described in Sections s 3 and 4, and the property belonging thereto, were, at the time of its passing, alike subject to the control of the Board of Revenue and their local agents in the performance of all the above duties, and it was the very purpose of the Act to provide differently for the future exercise of such duties, according as the nomination of the trustee, manager or superintendent of each temple or religious establishment had or had not been ascertained to be a right possessed independently of the Government." So that the powers of the Board of Revenue under Regulation VII of 1817 which legally existed until the passing of Act XX of 1863 were continued to the temple committees formed under that Act in respect to all temples falling u/s 3, and were taken away only in regard to the temples falling u/s 4 That the Board of Revenue were deprived of some of their powers so far back as 1841 by the executive order of Government does not affect the position of the committees created under Act XX of 1863; because it is not the powers of the Board of Revenue as they existed at the time that the control of the temples was made over to the committees, that were conferred upon them but the powers of the Board of Revenue as they existed in 1817, and what those were have, I think, been sufficiently set forth. The plaintiff's case being one falling u/s 3, he cannot possibly claim exemption from control by the committee of his management which can only be claimed by trustees coming u/s 4. No case has been cited since the passing of Act, XX of 1863 in which exemption from such control has

been established by a trustee appointed u/s 3 of the Act, and it is certain that it would never have been recognized. On the other hand, in the case of *Virasami v. Subba* ILR 6 Mad. 54 we find an instance of a trustee who had submitted generally to the "authority, interference and supervision" of the committee. and a contention there similar to the one in the present suit that a trustee was only liable to render an account to the committee was overruled. If any further proof were wanted as to the all-reaching control vested in Government officers before the passing of the Act XX of 1863, it is to be found in Section 22 of the Act which prohibits officers of Government from thereafter undertaking or resuming the superintendence of any endowments, or taking part in the management or appropriation thereof or appointing trustees or being in any way concerned therewith. This is a clear indication that such were the powers which the officers of Government had been previously exercising and which thenceforth devolved on the temple committees. From what has been stated there cannot, I think, be a shadow of a doubt that in this case the committee were empowered to supervise and control the plaintiff in all his acts of management including the conduct of religious services. If, for instance the plaintiff was showing favour to "Vadagalai observances rather than to Tengalai, it was within the power of the committee to prevent him from doing so, this being admittedly a Tengalai temple, just as much as if it being a Vishnuvite temple he had introduced a Shivite form of worship therein, because he would have been appropriating the funds of the temple to a purpose foreign to the intention of the grant; and it is the duty of the committee to see to the due appropriation of the funds. Several complaints had reached the committee that the plaintiff" was introducing Vadagalai rituals, and if that was so, it was within their power to prevent it under the general powers of control which, in my opinion, they undoubtedly possess.

17. The other part of the question is, what are the powers of the committee in regard to the individual whom they have appointed to the office in case he disobeys their orders or does not submit to them as to the way in which he should conduct himself in the discharge of the duties of his office? That the committee have for just cause the power of dismissing a trustee or superintendent appointed by them u/s 3 of the Act has been laid down in *Chinna Rangaiyengar v. Subbraya Mudali* 3 M.H.C.R. 334 It was there found that the Board of Revenue both in this Presidency and in Bengal had all along exercised the power, and the Court (SCOTLAND, C.J., and COLLETT, J.) held that the power, though not expressly given by the Regulation, "was properly incident to the principal duties and the responsibilities of the Board of Revenue and was impliedly given," and they further held that that power being a power properly exercised by the Board of Revenue, was a power transferred to the committee. That decision was given in 1867 soon after the passing of the Act, and it has never been departed from. On the other hand, it has been followed and recognised in subsequent cases, notably in *Ramiengar v.G. Pandarasannada* 5 M.H C.R. 53 and *Virasami v. Subba* ILR 6 Mad. 54. (Nor is it contended on behalf of the appellant (plaintiff) that he was not liable to dismissal by the committee

for good and sufficient cause. What is contended is that he was not liable to suspension by the committee. Suspension is no doubt a temporary removal from office as dismissal is a permanent removal there from. But surely it stands to reason that the greater power includes the less and that if the committee have the power to remove a trustee from office for all time, they can do so for a time. Indeed, we find wherever we look the two powers are classed together as going hand in hand. Thus, in the leading case of *Chinna Rangaiyengar v. Subbraya Mudali* 3 M.H.C.R. 334 we find the Judges speaking of the authority "to suspend or remove" as equivalent powers. In suits brought u/s 14 of Act XX of 1863 authorizing a Civil Court to direct the removal of a trustee, a temporary removal or suspension has been judicially recognised by this Court as within the powers of the Civil Court in a very recent case--see *Natesa v. Ganapati* ILR 14 Mad 103 . Again, in the Madras Civil Courts Act III of 1873, the powers of suspending or removing Subordinate Judges and Munsifs and ministerial officers are clubbed together as alternative courses. So that I think there can be no doubt that where the power of removal exists in a governing body the power of suspension is necessarily included. I do not mean to say that this proposition would apply to the special case-that was put of a club where a member may be expelled for misconduct. The rights and obligations of the members of a club are mutual and equal, and are subject to an express set of rules. If no provision is made in those rules for the suspension of a member pending inquiry, such a course would not be permissible, for the simple reason that the special and peculiar rules which govern the club do not permit of it. There is nothing, however, to prevent the introduction of such a rule if the members of the club so choose. The relative position, however, of the temple committee, and of the plaintiff is not the same as that of the members of a club. It is not as if the trustee u/s 3 was independent of the temple committee in which case the temple committee would not have the power to dismiss him at all, just as they have not the power to dismiss a trustee u/s 4. In the words of the judgment in *Chinna Rangaiyengar v. Subbraya Mudali* 3 M.H.C.R. 334 the plaintiff is an officer "amenable to their control," and as such their subordinate. It is true that in one view he is a trustee as the property of the temple is vested in him and not in the committee; but in another view he is also a servant of the committee because he is subject to their control. He holds in fact a dual character, and that is why, perhaps, the plaintiff's appointment was designated as that of "permanent manager" and not as that of trustee. If he were a trustee and nothing but a trustee, the committee could have no power in themselves to dismiss him, but would have to seek the intervention of the Courts. But the undisputed power that the committee have in themselves to dismiss him is a clear signification that he is not in the position of an ordinary trustee. If he grossly misbehaves himself, the committee in the exercise of their powers of control can admittedly dismiss him; but supposing his misconduct is not such as to warrant an outright dismissal, are the committee to be powerless to check him by any punishment short of dismissal, which dismissal *ex hypothesi* could not be justified? In every view, therefore, it seems to me that the power of suspension is inherent in the power of dismissal. So that if in this

case the suspension of the plaintiff had been made as a punishment, 1 should have no hesitation in holding that it was within the power of the committee; but in this case the suspension was not made as a punishment but was a suspension pending an inquiry into the charges of misconduct alleged against him. Now, assuming of course that the committee acted *bond fide* and believed there was a *prima facie* case made out against the plaintiff, the question is whether in such circumstances it was within the power of the committee to temporarily remove him from office pending further inquiry; that is, whether the committee could suspend him for suspected misconduct as contradistinguished from proved misconduct. The power is one which is (as is well known) exercised by Government over its own servants, and there is an instance of its having been exercised by a Collector over a trustee, *Panduranga v. Nagappa* ILR 12 Mad. 366 where this Court took no exception to the course adopted by the Collector. The following is the text: "It appears, however, that in 1834 the Collector suspended him from office for neglect of duty on the ground that his conduct was open to suspicion and that in 1837 the Collector finally dismissed him from trusteeship (see Exhibits Y, Z and DD). Although it is alleged that this dismissal was an arbitrary proceeding on the part of the Collector, there is no evidence to show that such was the case and that the Collector passed the order otherwise than in the *bond fide* discharge of his duty under Regulation VII of 1817." Viewed as a preliminary and precautionary step ancillary to the exercise of the substantive powers of suspension and dismissal, the procedure appears not only to be unobjectionable, but justifiable as being advantageous to both parties where the relation of master and servant exists. As in this case the control of the committee over the plaintiff was the control over a subordinate, the case seems parallel to the case of master and servant I must, therefore, hold that the committee did not exceed their powers in suspending the plaintiff pending inquiry. It must be remembered that the powers of the committee are derived from the supreme or sovereign power of Government, and there can be little doubt that the Government were free to suspend" a recalcitrant trustee *pro tempore* pending further action when they controlled the management of the pagodas just as they now do with their officers. this Court itself only last year on two occasions suspended Munsifs pending an inquiry into their conduct. This was done under the Court's general power of suspension and it was not considered open to question.

18. Holding then that the committee were empowered to pass the orders which they did, the next and last question is whether they properly exercised those powers in regard to the plaintiff. Those powers must be exercised in a reasonable and not in an arbitrary way as laid down in the case of *Vijaya Ragava v. Secretary of State for India* ILR 7 Mad. 466 . It would not be the committee's own view of what constituted misconduct that would justify their removal of the trustee, but only what would satisfy a Court of Equity that there was misconduct. On the other hand, in the case of a trustee it is not always necessary to establish actual misconduct against him before he can be removed. A trustee may be

removed if the Court is satisfied that the continuance of the trustee would prevent the trusts being properly executed. The principle is stated by Lord BLACKBURN in *Letterstedt v. Broers* L.R. 9 App. Cas. 371 as follows: " and therefore though it should appear that the charges of misconduct were either not made out or were greatly exaggerated, so that the trustee was justified in resisting them and the Court might consider them in awarding costs, yet if satisfied that the continuance of the trustee would prevent the trusts being properly executed, the trustee might be removed. It must always be borne in mind that trustees exist for the benefit of those to whom the creator of the trust has given the trust estate." The grounds on which the majority of the committee issued their first order suspending the plaintiff are to be found in Exhibit N. They are (1) that he owed his appointment to the favour of one committee member, his cousin, the fifth defendant, and to the fear of another, the Chetti who has since died, the charge on the latter head being that the plaintiff had taken civil process out against the Chetti to intimidate him, (2) that since his appointment he had caused loss of property and money to the temple, and (3) that he had conducted things in the temple contrary to custom so as to cause a disturbance of the peace between the Tungalais and the Vadagalais, and that some of his irregular acts were disrespectful to the god. It is urged on the plaintiff's behalf that none of these grounds was a good one and that the order was actuated by personal ill-will against the plaintiff. Premising that, unlike in an order for dismissal, the grounds for suspension pending an inquiry do not need to be actually proved, and that it is sufficient if there are prima facie grounds for action, I observe that the committee had before them several long and detailed complaints of mismanagement on the part of the plaintiff, and I must say that if they believed in the genuineness of those complaints they had ample reasons for suspending the plaintiff pending inquiry. I do not refer to the first ground which they have given in their order, because I think that that was not a proper ground for suspension, as the plaintiff had been in office for seven or eight months during which time he had been acknowledged by the committee as the manager. But in respect to the grounds (2) and (3) there were apparently genuine complaints of actual malversation and of malfeasance and nonfeasance. It is urged that, as regards the ground No. 2, the committee had no reason for believing that there had been any malversation and that as regards the ground No. 3 of general mismanagement the committee had no power of interference with the internal arrangements of the temple. It is also said that it was no part of the business of the committee to prevent a breach of the peace. However, I consider that they had a concern in both matters in the preservation of the peace and in the conduct of affairs in the temple, as they certainly had in regard to the malversation, if any, of the funds. One particular fact must be borne in mind, and that is that there had been no manager of the Vadagalai sect since 1881, and that in the time of the previous Vadagalai manager there had been serious rioting. There had also been a disturbance in the temple soon after the plaintiff took charge in regard to his conduct of the Tidal festival in which the interference of the magistracy was invoked, and at the very time when the order of

suspension was passed there was another important festival going on. So that the only question is, did the committee proceed in the bona fide belief that they were acting for the good of the temple in suspending the plaintiff when they did; for I think that a Court of justice would have acted in the same way on the same materials if there was reason to believe that they were true. I agree with the District Judge in thinking that the three members of the committee who signed the order Exhibit N were not actuated by dishonest motives or personal ill-will against the plaintiff. It is not alleged that the third defendant, one of the signatories now deceased, had any personal spite against the plaintiff, and this to begin with is a very material point in favour of the bona fides of the order. The circumstances relied on as showing a personal animus against the plaintiff on the part of the other two committee members are not, in my opinion, sufficient to prove it. In regard to the first defendant, all that is shown is that he had had a difference of opinion with the fifth defendant respecting the dismissal of the trustees of another temple, the Lalgudi temple, and it is said that in consequence of that he had threatened the fifth defendant to do harm to his cousin, the plaintiff. As it is a fact that the first defendant had protested against the appointment of the plaintiff from the outset, I do not see how any subsequent dispute between him and the fifth defendant could have been the cause of the first defendant's objection to the plaintiff. That objection was never disguised, and I think the first defendant is entitled to be credited with honesty in his objection to the plaintiff's appointment and management. It was mainly on the ground that he was a Vadagalai and therefore not fit to manage this Tengalai temple; and there was no odium theologicum on the first defendant's part, for he is neither a Tengalai nor a Vadagalai but a Shivite. I believe, therefore, that it was on public grounds that he objected to the plaintiff's appointment at first and afterwards ordered his suspension when he found that the appointment had actually led, as he thought it would, to mischievous results.

19. In regard to the second defendant, there is the fact that he was superseded in the management of this temple by the plaintiff. So that it is possible that his feelings towards the plaintiff were not altogether amicable. But there is nothing to show that he ever evinced any hostility to the plaintiff on that ground. Though he had lost the managership of the temple he had achieved the higher position of a member of the temple committee and was probably just as content with that position as the one he had lost and which he could not recover now that he was a member of the committee. I find nothing in any of the other circumstances alleged against the second defendant as showing his personal animosity to the plaintiff, as I find the acts of the second defendant in connection with the plaintiff were acts performed by the second defendant in his official capacity in which no bias against the plaintiff was even shown. It should be noticed that the fourth member of the committee did not disapprove of the action being taken by the other three members, but only held his hand, thinking that an explanation from the plaintiff should first be called for. This of itself shows that there were matters against the plaintiff calling for explanation at least.

20. The fifth member is the fifth defendant who, of course, did not join in the order made against his nominee and cousin. I am therefore of opinion that as respects the order of suspension the three members of the committee were well within their rights and that they acted entirely in what they thought to be the interests of the temple in suspending the plaintiff.

21. To come to the subsequent order of dismissal by the same three members, I am bound to find that they acted without good and sufficient cause, although [attribute no actual mala fides to them in so doing. By defying the committee the plaintiff frustrated and prevented them from holding an inquiry and thereby no doubt put them in a fix, which affords them some excuse. But when informing the plaintiff in Exhibit E of his dismissal they give him no reason whatever for the same. In the minute they recorded (Exhibit S) giving their reasons for dismissing the plaintiff, they state generally that it was because he denied their authority over him and refused to give up the key of the cash chest and the records that were with him and at the same time threatened them with a suit on account of his suspension, which suit, as a matter of fact, he had already filed when they passed the order of dismissal. Now, looking to the fact that they gave the plaintiff no notice of their intention to dismiss him or why they dismissed him, and gave him no opportunity of explaining his conduct and that nothing else had occurred against him since his suspension except his refusal to submit to that order, and that in the suit that has now been tried they have failed to substantiate any of the charges laid against him excepting, perhaps, a charge of insubordination, I consider that they were not justified in dismissing him peremptorily only for contesting their authority. He appears to have done this under a bona fide, though mistaken, belief that the committee had no power to suspend him without previous inquiry, and I do not think that the letter of protest that he wrote (Exhibit Q) went beyond the due bounds of decorum. At any rate, even after this trial, no good and sufficient cause for his dismissal has been proved, and the only ground on which the Judge considered that the dismissal was justified was his insubordination. That by itself, in the circumstances stated, was not of such a kind as to warrant his summary dismissal without his being allowed even the opportunity of an explanation. As before remarked, in order to justify the deprivation of his office there must have been such proved misconduct on the plaintiff's part as to satisfy a Court of justice, or it must have been shown that it was absolutely necessary for the welfare of the temple that he should be removed. Neither of these points has been established by the defendants, and I accordingly decide that the plaintiff's dismissal was wrongful, albeit his suspension was right.

22. In the result the Appeal No. 22 will be referred to the Chief Justice u/s 575, Code of Civil Procedure, and the Appeal No. 23 will be allowed and a decree given to plaintiff in the terms of the plaint with costs throughout.

23. [Appeal No. 22 of 1896 relating to the appellant's suspension from office came accordingly on for hearing before the Chief Justice sitting with SHEPHARD,

and DAVIES, JJ.]

24. The Acting Advocate-General (Hon. V. Bhashyam Ayyangar) and Narayana Ayyangar for Appellant.

25. Sankaran Nayar for Respondents Nos. 1 and 2.

26. Bhashyam Ayyangar--The two questions which arise are, first, whether the defendants had the power to suspend the plaintiff, and in the second if that power existed was there due cause for its exercise? It is true that in cases of clubs and other like associations the Court will not sit as a Court of Appeal, but will only see that the proceedings have been duly held in the matter of giving notice to the person concerned and other like respects. It is otherwise in such cases as the present. The Court will form its own judgment as to the cause and ground of the dismissal, as in the case of a municipal commissioner under the District Municipalities Act, see *Vijaya Ragava v. Secretary of State for India* ILR 7 Mad. 466 where the plaintiff wanted to have it declared that his dismissal by Government from the office of the municipal commissioner was invalid and sought not restoration to office but damages. It was decided that Government could dismiss only when there was misconduct which it had to prove: the matter did not depend upon whether there had been misconduct in the opinion of Government. Now, could Government have suspended the municipal commissioner pending inquiry into the reports which led to his dismissal? Clearly it could not and similarly here the committee had no power to suspend the trustee. The power to dismiss does not include the power to suspend. Compare *Barton v. Taylor* L.R. 11 App. Cas. 197 . [COLLINS, C.J.: Is there here any statutory power to dismiss or suspend?] Not in express terms. The power to dismiss comes from the old superintendence of the Board of Revenue which was subject to the Court's power to decide the question of misconduct. The Court, of course, when misconduct is proved, has the power to dismiss, but has the Court power to suspend? [DAVIES, J.--There is a difference between the positions of trustees under Sections 3 and 4]. For the present point there is no difference, this case however is u/s 3. Trustees under both of these Sections were subject to the superintendence of the Board of Revenue under Regulation VII of 1817 and were alike subjects to be dismissed in the manner I have stated. So far as control was concerned no distinction was made between temples u/s 3 and Section 4 of the Religious Endowments Act in which trustees, managers and superintendents are all on the same footing. The plaintiff who was appointed to the office of trustee by Exhibit A took an estate of freehold in the office during good behaviour from which the defendants purported to oust him by the order marked as Exhibit N. [DAVIES, J.--That was an order of suspension pending inquiry,] In effect, it was a deprivation. It was indefinite in matter of time and even assuming that the power to suspend existed, it was bad for that reason and for want of sufficient cause and also for want of notice to the plaintiff, but there is no warrant in law for such an assumption. [COLLINS, C.J.--If they can dismiss, why cannot they suspend the trustee?] In the first place, because the trustee by

his appointment became the grantee of the office in freehold; in the second place it becomes necessary to consider the limitations on the power of dismissal, which are stated in accordance with authority by SHEPHARD, J.; and in the third place it has to be noted that the original committee-men appointed by Government in 1863 and their successors have no property vested in them by their appointment, and the trustee whom they appoint becomes, ipso facto, the legal owner of the property. [DAVIES, J.--The whole argument reduces the power of the committee to nothing. COLLINS, C.J.--Take it that a trustee does something wrong, can the committee shut him out?] The answer is furnished by *Chinna Rangaiyengar v. Subbraya Mudali* 3 M.H.C.R. 334 cited in the judgment of SHEPHARD, J. [COLLINS, C.J.: He may be dismissed then subject to the effect of a suit by him for reinstatement.] That is so. See also the case reported next after the case last cited which continues the history under the names of the same parties. [DAVIES, J.--Does not removal imply dismissal and ejectment from office?] The trustee cannot be ejected without recourse to law. [DAVIES, J.--Compare the case of the removal of a municipal officer, if Government determined to remove such an officer, must it bring an ejectment suit?] If he is persistent in, for instance, attending the municipal meetings, Government can take the law into its own hands and abide his action of trespass. If he brings his action of trespass against the chairman of the municipality the defendant cannot justify by pleading only the Government order, but must show misconduct. The trustee's position is comparable with that of a Judge in England who does not like Indian officials hold office during Her Majesty's pleasure, but during good behaviour, see *Dunn v. The Queen* (1896) 1 Q.B. 116 ; which emphasizes the distinction. The unsuccessful plaintiff there sued the authority which appointed him to an office not during good behaviour, but during Her Majesty's pleasure and subsequently dismissed him. In such a case it is unnecessary to prove misconduct to justify the dismissal. In *Ghinna Rangaiyengar v. Subraya Mudali* 3 M.H.C.R. 334 suspend and remove are used as synonymous terms, [DAVIES, J.--Then it would be the same in the Civil Courts Act.] The words are controlled by the context. See also Act XXXVII of 1850, Section 25, and *Ponduranga v. Nagappa* ILR 12 Mad. 366 The appointment is for life. There can be no temporary appointment of trustee or manager or superintendent. What then is meant by suspension pending inquiry? and what are its results? To whom does the property meanwhile belong? Suppose the suspension to be malicious, is the trustee meanwhile responsible or not? If somebody else is put in and brings a suit in his capacity as trustee and afterwards the suspension is shown to be unjustifiable, what is the Court to do in the suit of the person so put in? The position of a person having a freehold in his office and being suspended from that office is one which is inconceivable. There is no legal authority for the position that even a master having employed a servant for a term of years can suspend his servant from his employment. Properly regarded a suspension for misconduct is in law a dismissal provided that there is really misconduct; if the person suspended is afterwards reinstated it is in fact a re-appointment. Regulation VII of 1817 which gave the Board of Revenue no power to appoint a temporary trustee has to be

imported into Act XX of 1863. See Section 11 of the Regulation when the trustee is hereditary and Section 12 when he is a nominee, and Section 7 of the Act. [DAVIES, J.--What is removal?] Bringing about the end of his legal office and cessation of his powers as office holder. [DAVIES, J.--Can the committee eject him? *Chinna Rangaiyengar v. Subbraya Mudali* 3.M.H.C.R. 334 is an authority for saying they can remove him without a suit, subject to the limitations already pointed out.] But on general principles if there is power to dismiss a trustee and appoint a new one there is no power to suspend and appoint an ad interim trustee. Of course, a Court may in a suit appoint a receiver who will exercise the powers of the trustee who has been dismissed pending the decision whether he has been rightly dismissed. In *Natesa v. Ganapati* ILR 14 Mad. 103 with which must be taken *Sivasankara v. Vadagiri* ILR 13 Mad. 6 the word "suspend" is used as meaning a conditional dismissal. In this view it is important to refer back to *Barton v. Taylor* L.R. 11 App. Cas. 197; see the second plea page 202. [DAVIES, J.--Suppose the misconduct is not enough to justify dismissal, cannot they suspend?] No, they cannot temporarily divest him of his estate and they cannot punish. [DAVIES, J.--If Court makes an order of removal under Act XX of 1863, Section 4, what is the effect?] He is a trespasser from that moment, and a suit to eject might, under certain circumstances, be necessary. Here, however, no misconduct before suspension has been established. [DAVIES, J.--There was a prima facie case.] But suspension which is necessarily a punishment could not be justified except where actual misconduct is shown. If suspension is justified by only a prima facie case not ultimately proved, then want of notice to the trustee is fatal. As to a committee's powers of control over trustees, I do not argue, and never did, that the committee could only compel trustees to produce accounts; they can issue lawful orders as to the application of endowments. Their powers are neither more nor less than those of the Board under the Regulation. It is not an ecclesiastical control but a control over the endowments. They have the powers succinctly stated in Act XX of 1863, Section 22, which provides they shall be no longer exercised by the Government officers. They did not comprise any interference in the ceremonies. The management of endowments does not include these matters. The temple is not the endowment. There are temples without endowments, and they did not come under the Regulation of 1817 nor under the Act of 1863, see Sections 3, 7, 22.

27. *Sankaran Nayar*--The property is that of the idol not of the trustee, and the interest of the temple not of the trustee, is to be preserved, see *Maharanees Shibessouree Debia v. Mothooranath Acharjo* 13 M.I.A. 270 and *Letterstedt v. Broers* L.R. 9 A. pp. Cas. 371 as to the removal of a trustee. [SHEPHARD, J.: He can be removed, of course, but a strong case must be made out, so it has always been held in these cases.] The interest of the temple is the main thing to be observed. [COLLINS, C J.--But here he has been declared not to have been properly dismissed. He is now the trustee of the temple.] The Regulation gave no new power to the Board of Revenue *Rajah Muttu Ramalinga Setupati v. Perianayagum Pillai* L.R. 1 IndAp 209 . but only regulated and defined existing

powers already vested in the Board. Moreover, the extent of the powers is not to be gauged by Section 22 which is negative. Section 3 governs this temple. Sections 4, 5 and 6 are immaterial except for the fact that Section 6 refers to trustees as managers of these temples; then comes Section 7 as to the constitution and duties of committees. Section 8 relates to the qualification of committee-men; Section 9 to the tenure of office; Section 10 to vacancies in the office. Then Section 12 gives the committee powers over the temple and the property. [DAVIES, J.--This temple has no land but only a money income.] But the point is that it is not only the endowment as distinct from temple that is concerned, but the committee has power over the temple. [SHEPHARD, J.--The Board of Revenue had not the jewels.] That was so in a sense, but there was no one else to hold them except the Government peishkar. The case of *Rajah Muttu Ramalinga Setupati v. Perianayagum Pillai* L.R. 11. A. 209 is on the facts ad rem--there there was a temporary injunction or suspension by the Collector of a newly-appointed trustee for one year. The argument was that the Collector was acting as agent of the zamindar. The Privy Council said no, but acting as Collector under the powers which existed before the Regulation. The Regulation does not limit the rights of the Collector, but prescribes how they are to be exercised. All the acts complained of in the present case were such as involved the use of temple property and the employ of the temple servants. [SHEPHARD, J.--Can you read Exhibit N and say that the committee had the interest of the temple primarily in their minds?] The matter is alleged at the outset--it is said he has occasioned loss, and also they allege misuse which suffices to bring it within the Section. As to trustees of this temple, there is no reference to any trustee or manager in the early records; the Collector was in direct management. [SHEPHARD, J.--You say the position of affairs was as in 1841 except that the committee is in the place of Collector.] Yes, under Sections 7 and 12 except for Section 11. [SHEPHARD, J.--You say the decision that a committee cannot hold property is wrong.] Yes, if it is necessary I am prepared to show that. [SHEPHARD, J.-- Section 11 is important as recognizing a trustee apart from the committee.] The trustee took the place of the local agent not of the Board. The place of the Board was taken by the committee. It was Board and Collector till 1841, the Board and manager till 1863. The Board could remove the manager at any time unless they were precluded by the deed of appointment. In 1842 four stalathars were appointed hereditarily, and the trustees kept under control of the Board. As to the argument with reference to the suits, the Collector and any manager defacto could sue. The argument about suits and the ownership of the property falls to the ground if it is remembered that the idol is the owner, and suits are brought for it. See *Queen-Empress v. Muttusami Pillai* Criminal Appeal No. 215 of 1895 (unreported) where COLLINS, C.J., and PARKER, J., say: " The Devasthanam committee appointed under Act XX of 1863 exercise the same powers of supervision that were formerly exercised by the Board of Revenue under Regulation VII of 1817, but the property of the temple is not vested in them, nor do they represent the property. The person who represents the property is the trustee or manager, who is indeed appointed, and may, no doubt, be removed by

the committee for sufficient cause. But the trustee or manager is not in the position of a clerk or servant removable at the pleasure of the committee. He holds his office permanently, though subject to removal for misconduct. It was held in *Ponduranga v. Nagappa* ILR 12 Mad. 366 that the members of a devastanam committee were not entitled as against the trustee or manager to be put in possession of the property of the temple or to the receipt of its income. The right view appears to be that the deity is regarded as the owner of the temple property, and the trustee or the manager appointed by the committee is the agent of the deity subject to the committee's control." The manager is an agent of the idol only subject to the committee's control. Where the action of the committee is in question, it has to be considered whether it is against the interest of the idol in the particular circumstances. As to the decision in *Chinna Rangaiyengar v. Subbraya Mudali* 3 M.H.C.R. 334 it shows that powers to dismiss and suspend are all traceable to the express powers of general superintendence, and must be judged as any other act of general superintendence is to be judged. So the powers are not to be construed as statutory powers. Were it so, it might be that power to dismiss would not include power to suspend. In *Natesa v. Ganapati* ILR 14 Mad. 103 if there had not been so many trustees the case would have been different, and the result might have been different. Before the case of *Chinna Rangaiyengar v. Subbraya Mudali* 3 M.H.C.R. 334 the Sudder Court first held that Civil Courts had no power as to dismissal, only the Board [*Daseekamiengar v. Singamiengar* Sudder Adalat Decisions of 1857 p. 5 . see also the decision in *Kassiyassy Kistna Putter v. Vangala Shangaranat Josser* Sudder Adalat Decisions of 1858 p. 39. The High Court said: We will not go so far as that, but will allow the person dismissed to go to Court after dismissal. The second Sudder case quoted above took the middle course and said that the person aggrieved might go either to the Board of Revenue or to the Court. This explains *Chinna Rangaiyengar v. Subbraya Mudali* 3 M.H.C.R. 334 which does not rule that any new rights (not enjoyed by the Board of Revenue) were given by Act XX of 1863 to the committee. Page 76 of Book III gives the history between 1841 and 1863. See *Venkatasa Naidu v. Sadagopasami Iyer* 4 M.H.C.R. 404 and *Jusagheri Gosamiar v. The Collector of Tanjore* 5 M.H.C.R. 334 . This Srirangam temple is admittedly u/s 3 of Act XX of 1863. Section 7 of the Act embodies Sections 11, 12 and 13 of the Regulation, but that presupposes a vacancy, i.e., a previous manager's superintendence. What was to be done where as here there was none such? Clearly the Board could appoint, not therefore under the Section, but under its general powers of superintendence. *Barton v. Taylor* L.R. 11 App. Cas. 197 quoted on the other side helps me, because it recognises the distinction between suspension and dismissal: but it held that although there were no rules the power was not to be used further than necessary. [SHEPHARD, J.--It was said it could not be done punitively but by way of self-defence. I My contention is that the suspension was necessary in the interests of the trust. It is to be noted also that there the person suspended was not a subordinate, but an equal member of the assembly. As to punitive suspension *Natesa v. Ganapati* ILR 14 Mad. 103 shows it is legal under this Act to suspend or dismiss. Compare also

District Municipalities Act IV of 1884, Section 42; Local Boards Act V of 1884, Section 45; Civil Courts Act, Section 18; the Enquiry into offences of public servants, Act XXXVII of 1850, Section 25, and Legal Practitioners Act XVIII of 1879, Section 14. The committee can be the trustees, see Section 12 of Act XX of 1863; they are not always the only trustee *Ponduranga v. Nagappa* ILR 12 Mad. 366 but see *Ramiengar v. G. Pandarasannada* 5 M.H.C.R. 53 which says that Section 4 refers to cases where the right of management is shown and not only actual possession and management. The case of *Vijaya Ragava v. Secretary of State for India* ILR 7 Mad. 466 does not apply; there there was no question of general superintendence, and no question of a subordinate, but the question related to a statutory power, and in such a case suspension is unnecessary, because the councillor has no executive function, and there was no obstruction. [DAVIES, J.--Also that was only an appointment for a term. I As to the evidence--can this bench go into evidence? or only into the point of law referred? See Section 575, Civil Procedure Code.]

28. [Per cur.--The whole appeal is referred and the whole is open for argument. SHEPHARD, J.--But you must assume that the other appeal is rightly decided and there was no cause for dismissal.]

29. The evidence duly considered is sufficient to justify the suspension. *Haymanv. Governors of Rugby School* L.R. 18.Eq. 28 shows that the discretion of a committee cannot be overruled; and that discretion can be exercised on evidence not strictly proved, see *In re Burnham National Schools* L.R., 17 Eq., 241 .

30. Bhashyam Ayyangar in reply: referred to *Venkatesa Nayudu v. Shri Shatagopa Swami* 7 M.H.C.R. 77 . As to *Rajah Muttu Ramalinga Setupati v. Perianayagum Pillai* L.R. 1 I. A. 209 the sovereign having power to see that the funds were devoted to proper purposes and to appoint trustees, the question there was whether Collector's act should be ascribed to him as representative of Government or as representative of zamindar; the Privy Council said the former.

Collins, C.J.

31. This appeal was re-heard by SHEPHARD and DAVIES, JJ., and myself under the provisions of Section 575 of the Code of Civil Procedure, the two first-named Judges having differed in opinion.

32. The suit was brought in the District Court of Trichinopoly by the plaintiff--the permanent trustee of the Srirangam temple--against the temple committee of the said temple for suspending him from performing the duties of his office--claiming an injunction and also damages.

33. I have to consider two questions--firstly, has the committee power to suspend the trustee of the temple; and secondly, if the power exists, were the members of the committee justified under the circumstances in exercising the power?

34. This is one of those frequent disputes between the worshippers of Vishnu--calling themselves, respectively, Vadagalais and Tengelais--and it arose in this wise;--there was a vacancy in the office of trustee of the Srirangam temple, and on the 1st of May 1892 the plaintiff was elected by a majority of the then existing committee permanent trustee and manager of the temple. The temple is not a purely Tengelai temple (see Acting District Judge's proceedings), although the majority of the worshippers as well as the officials are undoubtedly Tengelais--the plaintiff was a Vadagalai. Sometime after the plaintiff was appointed some vacancies in the committee were filled up, and the majority of that body were Tengelais. As might be expected, petitions were at once presented against the plaintiff. He was charged with having obtained the office of trustee by fraudulent or improper means--that he unduly favoured his relative, the fifth defendant,--and that in the matter of ritual and the observance of the ceremonies he had not observed the usual customs, had used the revenues of the temple improperly and by various means had outraged the feelings of the Tengelai sect. These charges against the plaintiff were, if true, sufficiently serious to justify the committee in holding an enquiry.

35. All they appear to have done, however, was to ask some of the petitioners, if they could prove the allegations contained in the petition, and they naturally received an answer in the affirmative. The majority of the committee thereupon wrote various minutes recommending that the plaintiff should be suspended--one of the grounds being that plaintiff was a Vadagalai, whereas the temple is a Tengelai one, and they also suggested that disturbances might take place during the festival. This festival commenced in December and the principal day of the festival was the 30th December 1892, on which day special honours would be paid to plaintiff as trustee. On the 29th December 1892 the first, second and third defendants served on the plaintiff the following order (Exhibit N):

Yadast from the members of the committee for the devastanam of Trichinopoly taluk to K. Seshadri Ayyangar, permanent manager of Srirangam devastanam.

As it is necessary that you should be suspended from doing the duties of manager pending the enquiry and result of the petitions received in the office of the committee in which it is stated, among other things, while there were three members on the committee, you were appointed as manager by two of them without the cognizance of the third, which is contrary to rules, that one of the members who so appointed you was your near relation, namely, your brother, that the other member appointed you out of fear, learning that you attempted to take out a civil warrant against him when he was so ill as to be in his last moments, you having previously presented an execution petition to the Court for the execution of a decree you had obtained against him and caused an objection notice to be served on him, and also from a desire for money, that within the short period that has elapsed after you became a manager you have caused loss of property and money to the devas-tanam, that you have conducted several things in the temple that are contrary to custom, so as to cause the occurrence

of riots concerning the Tungalais and the Vadagalais, that you conducted the Tidal festival of the 28th Adi on the 29th, contrary to the temple rules and long custom,, that you committed in connection with it irregular acts very disrespectful to the god and that you so conducted the festival contrary to custom out of regard for M. R. Ry. Vasudeva Ayyangar Avargal, who is your brother and a committee member, you shall cease to do the devastanam duties from the date of receipt of this yadast. Further, you shall deliver charge of all proceedings and records connected with devastanam, that are with you, to T. Ratna Mudaliar Avargal, who is another manager, and report (that you have done so).

You will be informed of the time when the enquiry into the petitions is to be commenced.

29th December 1892. (Signed) Krishna Ayyangar, (,,) Tota Ramasami Chetti (,,) S. Nataraja Ayyar, Committee Members.

36. It will be observed that the charges against the plaintiff refer to the past; that the first charge is that the plaintiff was illegally elected to the office of trustee. He is not called upon for any explanation, but is then and there suspended on the eve of the 30th December--the day on which certain honours would be paid to him.

37. In answer to N the plaintiff sent Exhibit Q:

To The Members of the Devastanam Committee, Trichinopoly Taluk. Yadast sent by K. Seshadri Ayyangar Avargal, permanent manager of Srirangam devastanam.

The yadast No. 17, dated 29th ultimo, has been received from that office.

We, as far as we know, cannot understand, if there is any rule that the members could accept the petitions referred to in the yadast, or that such proceedings could be taken thereupon or that we should be bound thereby.

As steps should be taken after knowing the contents, &c, of the said petitions, I request that true copies may be caused to be made of the said petitions and of the proceedings in connection with them existing in the office of the members and of the circulation proceedings and forwarded to me within three days.

9-1-93. (Signed) Seshadri Ayyangar.

38. Exhibit Q is said to be grossly insubordinate and upon its receipt the committee at once dismissed the plaintiff from his office.

39. The plaintiff thereupon commenced two actions against the committee in the District Court of Trichinopoly--one for suspending him and the other for dismissing him. Both suits were tried together. All the charges of misconduct against the plaintiff failed, but the District Judge, in a not very satisfactory judgment, held that the suspension and dismissal were both justified--the dismissal on the ground that Exhibit Q was grossly insubordinate.

40. Exhibit Q appears to me a proper reply to the committee who had suspended plaintiff, and contains, as far as I can gather, no elements of insubordination, and I entirely differ from the view taken by the District Judge on this matter.

41. A Divisional Bench, consisting of SHEPHARD and DAVIES, JJ., reversed the decree of the District Judge so far as the dismissal was concerned for the reasons given in their judgments, but differed as to the right of the committee to suspend him, SHEPHARD, J., holding there was no power to suspend plaintiff, and awarding him damages for such suspension, and DAVIES, J., holding that the committee had the power to suspend and was justified in the course they adopted.

42. The Acting Advocate-General, for the plaintiff-appellant, contends that the committee has no power to dismiss the trustee without calling upon him to show cause why he should not be so dismissed; that he cannot be dismissed except for misconduct in the performance of the duties of his office; and he denies altogether that the committee can suspend, and he further argues that the appellant was guilty of no offence that warranted either his dismissal or suspension. Mr. Sankaran Nayar, for the respondents, contends that the committee has full power at their discretion either to suspend or dismiss a trustee and, further, that in this case the committee was justified in suspending the plaintiff, and that they acted in good faith and in the interest of the temple.

43. It is true that the British Government had assumed a certain control over these endowments, apparently from the time they took possession of the country. In *Rajah Muttu Ramalinga Setupati v. Perianayagam Pillai* L.R. 1 IndAp 209 the Privy Council stated that the British Government, by virtue of its sovereign power, asserted, as the former rulers of the country had done, the right to visit endowments of this kind and to prevent and redress abuses in their management.

44. The Government thus claimed and exercised a general power of superintendence over the temples and by Regulation VII of 1817 conferred that right upon the Board of Revenue. In the preamble of that Regulation (VII of 1870) it is stated that "the Regulation was for the due appropriation of the rents and produce of lands granted for the support of... Hindu temples and that there are grounds to believe that in many instances the produce of such endowments has been misappropriated and that it is the duty of the Government to provide that all such endowments be applied according to the real intent and will of the grantor. The Regulation, therefore, enacts that the general superintendence of all endowments in land or money for the support of Hindu temples be vested in the Board of Revenue--such Board to take measures for the due appropriation of such endowments--to appoint agents--the Collector of the zillah to be one--to ascertain particulars of such endowments and to report to the Board the names of the present trustees or managers of such institutions and by what authority appointed--such agents are to recommend fit persons for the confirmation of the Board of Revenue in cases where the right of nomination appertains to

Government and the Board may appoint such persons so recommended or make such other provision for the trust, management or superintendence of such institutions as may to them seem right. The Regulation also enacts that individuals deeming themselves injured by any orders passed under this Regulation, may sue for the recovery of their rights or for damages.

45. By Clause XV, trustees, managers or superintendents guilty of fraud or embezzlement of the revenues, funds or other property of the said institutions shall be punished.

46. The question now arises what was the general superintending power after 1817 possessed by the Board of Revenue and conferred by the Regulation?

47. The Board could undoubtedly prevent and redress abuses; but in my opinion an enquiry must take place to ascertain if such abuses really existed, and if it was found that such did exist, it could be prevented and redressed; but if any individual considered himself injured by any order of the Board he might sue and claim damages for such injury (Clause XIV). I am of opinion that the Board of Revenue possessed no arbitrary power. A trustee or manager, for instance, could not be dismissed or suspended at the mere will and pleasure of the Board, but only for just cause which must be ascertained by enquiry. From 1817 to 1841 the Board of Revenue exercised the general superintendence before alluded to, but in the latter year the Government resolved to relinquish all interference with native temples, reserving only to themselves the management of the lands endowed.

48. By Act XX of 1863, Section 1, so much of Regulation VII of 1817 (Madras Code) as related to endowments for the support of Hindu temples or other religious purposes was repealed.

49. Section 3 enacts that in case of every temple... to which the provisions of Regulation VII of 1817 are applicable and the nomination of the trustee, manager or superintendent whereof at the time of the passing of this Act is vested in or may be exercised by the Government or any public officer or in which the nomination of any such trustee, etc., shall be subject to the confirmation of the Government or any public officer, the Local Government shall make special provision. (It is conceded that the plaintiff's office is included in this Section).

50. Section 7 enacts that in all cases described in Section 3 the Local Government shall appoint one or more committee in every division or district and such committee...shall exercise all the powers heretofore performed by the Board of Revenue and local agents, except in respect of property specially provided for u/s 21 of the Act.

51. By Section 11 no member of a committee shall be a trustee or manager of a temple under charge of such committee. The committee therefore appointed under this Act, have the power conferred on the Board of Revenue by Regulation VII of 1817--that is a general superintendence and a power to prevent and

redress abuses and nothing more.

52. Section 14 gives any person interested in the temple power to sue the trustee or manager or the member of any committee of a temple for any misfeasance, breach of trust or neglect of duty. The Court may direct the specific performance of any act by such trustee, manager or member of a committee, may decree damages and costs against them and may also direct their removal. I will now consider the position of a trustee or manager of such religious institutions as are referred to in Act XX of 1863, Section 3. It is clear that he is not a servant of the committee. He holds his office permanently. He represents the property of the temple which is vested in law in the god or idol. See *Queen-Empress v. Muttusami Pillai*; see ante page 212 Under certain circumstances he may be dismissed by the committee, but only on good and sufficient grounds and after an enquiry into the facts, and such dismissal may be set aside by the Courts of law. In *Chinna Rangaiyengar v. Subbraya Mudali* 3 M.H.C.R. 334 SCOTLAND, C.J., and COLLETT, J., held that a trustee could be dismissed on good and sufficient grounds without having recourse to a civil suit, and I am bound by that decision.

53. The learned Judges in *Chinna Rangaiyengar v. Subbraya Mudali* 3 M.H.C.R. 334 observe that the authority to suspend or remove for just cause was properly incident to the principal duties and responsibilities of the Board of Revenue, and was impliedly given, and they refer to some cases decided by the Court of Sadr Adalat. These cases, however, relate to removal of the trustee for misappropriation of the funds or fraudulent abuse of the trust. I am doubtful whether the Judges in *Chinna Rangaiyengar v. Subbraya Mudali* 3 M.H.C.R. 334 meant that the Board of Revenue had a general power to remove trustees or could only remove them if they had been guilty of offences mentioned in Clause 15 of the Regulation VII of 1817.

54. The power of suspension by the committee is, in my judgment, the same as the power of dismissal. The committee, having made due enquiry and having called on the trustee for an explanation, may suspend for good and sufficient causes, but not otherwise. In the present case I am of opinion that the suspension was illegal--no sufficient enquiry having been made into the allegations contained in Exhibit N, and no explanation required from the plaintiff; and I further think, after reading and considering the whole of the evidence, that the committee were actuated throughout by the fact that the plaintiff was a Vadagalai and that the principal cause of the suspension on the 29th December was to prevent the plaintiff from receiving the usual honours paid to a trustee on one of the principal days of the festival, viz., December 30th. I do not think the action of the committee in suspending plaintiff was for the purpose of preventing a disturbance as now alleged by the respondent.

55. I am of opinion that the plaintiff is entitled to damages and the amount decreed by Mr. Justice SHEPHARD---one thousand rupees---appears to me a reasonable sum. The decree of the District Court must be reversed, and a decree

given for plaintiff in the terms of the prayer in the plaint with Rs. 1,000 damages. The damages and the costs throughout are to be paid by the first, second and third respondents--the other respondents will bear their own costs.

Shephard, J.

56. I adhere to the opinion already expressed by me, and I concur in the terms of the decree proposed by the Chief Justice.

Davies, J.

57. I adhere to my judgment as already pronounced.