
(1897) 12 MAD CK 0026
In the Madras High Court

Sitarama Charya

APPELLANT

Vs

Kesava Charya

RESPONDENT

Date of Decision : 13-12-1897

Acts Referred:

Citation : (1898) ILR (Mad) 402

Hon'ble Judges : Subramania Ayyar, J;Benson, J

Bench : Division Bench

Judgement

1. It is not alleged that any one is entitled jointly with the lunatic to the possession or control of the estate, and, therefore, the cases Shan Kuar v.

Mohanunda Sahoy ILR 19 Cal. 301 Jhabbu Singh v. Ganga Bishan ILR 17 ALL. 529 and Virupakshappa v. Nilgangavar ILR 19 Bom. 309 are

not in point.

2. It is next contended that the Judge had no jurisdiction to appoint a guardian for the property inasmuch as it was in the nature of trust property.

The person adjudged to be a lunatic is the head of a mutt. His exact position and right in regard to the property vested in him as head of the mutt

have not been investigated as the point was not raised in the Court below.

2. Prima facie, however, we must take it that the lunatic's right is similar to that of the heads of the mutts referred to in Sammantha Pandara v.

Sellappa Chetti ILR 2 Mad. 175 and Giyana Sdmbandha Pandara Sannadhi v. Kandasami Tambiran ILR 10 Mad. 375. In this view it is quite

clear that a guardian for such property may be appointed under Act XXXV of 1858. The term ""estate"" used in the Act is very wide, and may

properly be held to include such interest as the head of the mutt has in the property. It is not necessary for us to go further and decide whether the

Act would be applicable if the property were trust property, pure and simple.

3. On the merit we think the Judge's order is right.

4. We dismiss the appeal with costs.