

**(1914) 07 MAD CK 0017**  
**In the Madras High Court**

Venkatesha Mallia

APPELLANT

Vs

Bammampalli Ramayya Hegade and Others

RESPONDENT

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**Date of Decision :** 28-07-1914

**Acts Referred:**

**Citation :** AIR 1915 Mad 127 : (1914) 27 MLJ 241

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**Judgement**

1. u/s 18 of Act XX of 1863 the District Judge gave sanction to two individuals to sue for the removal of the Respondents who are the

Mokhassors of the Shri Anaritha Padmanabha temple of Pudur for misfeasance, breach of trust or neglect of duty.

2. Although the sanction was given jointly to both, only one of the individuals took action thereon and sued the trustees.

3. When the suit came on for trial before the same Judge who gave the original sanction, a preliminary objection was taken that the suit was bad

because the joint-sanction-holder had not joined in the suit. The Judge upheld this objection and dismissed the suit holding that the plaintiff could

not prosecute it alone. He further expressed a doubt as to the plaintiff's bond fides. The question before us therefore is whether one man should be

allowed to sue u/s 14 of this Act upon the strength of a sanction given to two men. Such sanctions are a condition precedent to the exercise of "the

right of suit Venkateswar in re ILR (1886) M.98 and it is open to the Court to amend the order of sanction at any time Srinivasa v. Venkata ILR

(1887) M.148 but the plaintiff seems to have made no attempt to move the Court, to alter the sanction by getting it granted in his name only. In the

case of Mahamed Atthar v. Ranja Khan ILR (1907) C. 587 this point was considered and the learned Judges held that when sanction had been

granted to three persons and two of them withdrew and one of the three joining with him two new persons brought a suit u/s 14 of the Act the suit

was not defective by reason of two of the three plaintiffs being persons to whom leave to sue had not been awarded. There, no objection was

taken at the trial and no issue framed as to the maintainability of the suit.

4. It was observed by the High Court that as the same Judge who gave the leave u/s 18 also entertained the suit he must have tacitly given

permission to the two new men to become plaintiffs along with Ranjakhah. So here as Mr. Hardinge granted sanction to two petitioners in his

order of January 8th 1906 and subsequently on March 1st 1908 he himself dismissed "the plaintiff"s suit because the Shivalli Brahmins had not

been joined as a party and at the same time doubted the bona fides of the plaintiff, it may be taken that he refused to allow the plaintiff to sue

singly-5. Such sanctions for instituting suits against trustees have to be construed strictly without enlarging their scope Sayad Hussain Miyan v. The

Collector of Kaira ILR (1895) B. 257 the object of requiring sanction being to protect managers from vexatious suits.

5. The words in Section 14 of the Act ""any person or persons interested in any mosque etc., may without joining as plaintiff with any other person

interested therein sue before the Civil Court the trustee, manager, etc. "" seem to be enabling words intended to give individuals a right to sue

individually without the necessity of all the worshippers of the particular temple or religious institution joining as plaintiffs. With all respect to the

learned Judges who decided Mahomed Athar v. Ramjan Khan ILR (1907) C.587 we do not consider that these words are intended to refer to

the persons who hold the sanction granted u/s 18.

6. Cases may occur in which it must be inadmissible to grant sanction to a particular individual either on account of his character, personal motives

or his solvency, and yet if he joined with some one whose very name would be a guarantee against the suit being improperly conducted a Court

would be justified in granting a joint sanction where it would have refused leave to the single applicant.

7. We are therefore of opinion that this suit was rightly dismissed.

8. The appeal is dismissed with costs.