

*Judgment of the Lords of the Judicial Committee
of the Privy Council on the Appeal of
Cherukunneth Manakel Neelakandhen Nam-
boodirapad v. Vengunat Swaroopathil P. R.
Varma Valia Nambidi and others, from
the High Court of Judicature at Madras;
delivered 28th July 1894.*

Present :

LORD HOBHOUSE.

LORD MACNAGHTEN.

LORD MORRIS.

SIR RICHARD COUCH.

[*Delivered by Lord Morris.*]

The Appellants are the Plaintiffs in a suit which was dismissed by the Subordinate Judge of South Malabar on the 10th December 1888 and was again dismissed on Appeal by the High Court of Madras on the 28th November 1890. The Appellants sought for a declaration that they as Urallars were entitled to the exclusive management of the affairs of the Temple of Kachankurissi, and that the Respondents had no right over or right of management in the said Temple, an ancient Hindu Temple of such antiquity that nothing is known as to its foundation or original constitution. The Respondents are the representatives of the original rulers of the district in which the Temple is situated, who so continued till the British sovereignty was established over the country in

the year 1792. The family of the Appellants appear to have always held the office of Urallers or Managers of the Temple, while the Nambidi possessed certain sovereign rights of superintending the Temple, called Melkoima rights. As long since as the year 1845 disputes arose between the ancestors of the Appellants and Respondents, and a suit was commenced as to the management of the Temple, which was settled by a Karar on the 16th August 1845; and in accordance therewith the parties two days afterwards filed a Razi withdrawing the suit. The Karar provides that the affairs of the Temple were to be managed and that the ceremonies were to be performed jointly "just as they were hitherto" and for a period of 30 years afterwards, namely until 1874, that arrangement was carried out. In 1874 fresh disputes sprang up between the Urallers and the Nambidi, and led to a suit in which the Urallers sought to recover certain lands belonging to the Temple from a tenant who held under a demise granted by the Samudayam appointed by the Urallers and the Nambidi according to the agreement contained in the Karar of 1845. This suit was compromised, and in a Razi of the 21st November 1874, terms were set out, which again determined that there should be a joint management of the affairs of the Temple by the Urallers and the Nambidi. This Razi was acted upon until the date of the present suit, the Urallers and the Nambidi jointly appointing a Samudayam and a Pattawali, and joining in suits to recover temple lands and in applications to execute decrees.

Their Lordships are of opinion that the state of things which has admittedly continued since 1845, and which was probably the state existing before that time and since the establishment of British Sovereignty, cannot now be questioned,

and that the compromise of their rights entered into in 1845 and 1874 by the Urallers and Nambidi is binding upon them and their successors, and cannot be now re-opened upon any theory of the extent of the Melkoima right in the abstract. The usage which has existed for so long a period is the best exponent of the Melkoima right vested in the Respondents, a right twice acquiesced in by the Appellants or their predecessors in legal proceedings in which the opportunity was afforded of a definite decision as to the rights of the respective families. Their Lordships will therefore humbly advise her Majesty that the judgment of the High Court ought to be affirmed and the Appeal dismissed. The Appellants must pay the costs of the Appeal.
