

*Judgment of the Lords of the Judicial Committee of the Privy Council on the Appeal of Ramanathan Chetti v. Murugappa Chetti, from the High Court of Judicature at Madras, delivered the 24th May 1906.*

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Present at the Hearing :

LORD MACNAGHTEN.

SIR ANDREW SCOBLE.

SIR ARTHUR WILSON.

SIR ALFRED WILLS.

[*Delivered by Lord Macnaghten.*]

In the village of Kottoor, in the Zemindari of Sivagunga, there is a Hindu temple dedicated to the public worship of the deity in whose honour it was founded, and endowed with the revenue of three villages. The office of manager of this temple is hereditary in a family of which the Appellant and Respondent are both members, but the family has no beneficial interest in the property or in the income of the temple.

The office of manager was formerly vested in one Mayandi Chetti, who was grandfather of the Respondent and great-grandfather of the Appellant. On Mayandi's death the office devolved by inheritance on his male descendants by his two wives. There were four by each wife, or eight in all. One member of each branch took the management for one year in alternate succession until the year 1881-82. About that time the members of the junior branch renounced or relinquished their claim to the office

in favour of the Respondent who is a member of the senior branch. During the 19 years immediately preceding the institution of this suit, in each cycle of eight years, there has been a settled order of succession among the members of the senior branch. The Respondent has had five turns, and the Appellant and the other two representatives of the senior branch one turn each.

In accordance with this arrangement the Appellant held the office of manager of the temple, and the property belonging to it, from 1st Adi of the year Vilambi (15th July 1898) to 30th Ani of the year Vikari (13th July 1899). On the expiration of that year it was the Respondent's turn to hold office for the next three years—one year in his original right and two years in right of the junior branch. The Appellant handed over the temple to the Respondent, but he kept back the jewels and retained or retook possession of the three villages with which the temple is endowed.

The Respondent then brought this suit to recover the jewels and the villages, with mesne profits. The Appellant did not dispute the facts alleged by the Respondent, but he set up various defences on points of law. Both the Subordinate Judge and the High Court decided against him.

In their Lordships' opinion the case is a very simple one. They think the unbroken usage for a period of 19 years is as against the Appellant conclusive evidence of a family arrangement to which the Court is bound to give effect. Twice during that period of 19 years the Appellant has, in his proper turn, enjoyed the position of manager for a year. The arrangement seems to have been a perfectly proper arrangement conducing to the due and orderly execution of the office. It was

one which the Court would no doubt have sanctioned if its authority had been invoked. It was one which, in their Lordships' opinion, the parties interested were competent to make without applying to the Court. If the Appellant wishes to set it aside and to have a new scheme settled, he must take proper proceedings. If he has any ground for attacking the management of the temple or the administration of the property attached to it, the Courts are open. But it is not for him, at his will and pleasure, to disturb an arrangement of which he has on more than one occasion taken the benefit. It is plain that the arrangement was not intended to be merely temporary, nor can it be regarded as precarious. It must hold good until altered by the Court or superseded by a new scheme effected with the concurrence of all parties interested.

The argument on behalf of the Appellant seems to have been founded on a mistaken analogy. The manager of the temple is by virtue of his office the administrator of the property attached to it. As regards the property the manager is in the position of a trustee. But as regards the service of the temple and the duties that appertain to it, he is rather in the position of the holder of an office or dignity which may have been originally conferred on a single individual, but which, in course of time, has become vested by descent in more than one person. In such a case, in order to avoid confusion or an unseemly scramble, it is not unusual, and it is certainly not improper, for the parties interested to arrange among themselves for the due execution of the functions belonging to the office in turn or in some settled order and sequence. There is no breach of trust in such an arrangement nor any improper delegation of the duties of a trustee.

The members of the junior branch are not before the Court. Their rights, if they have any are not affected by this suit. The Appellant cannot be allowed to put himself forward as their champion to disturb an arrangement with which they seem to be quite content.

Their Lordships will humbly advise His Majesty that the Appeal must be dismissed. The Appellant will pay the costs of the Appeal.

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