

*Judgment of the Lords of the Judicial Committee of the Privy Council on the Appeal of Sadayopa Chariar and others v. A. Rama Rao (since deceased, and now represented by Krishnamoorthy Rao) and others, from the High Court of Judicature at Madras; delivered the 21st March 1907.*

Present at the Hearing :

LORD MACNAGHTEN.

SIR ANDREW SCOBLE.

SIR ARTHUR WILSON.

[*Delivered by Lord Macnaghten.*]

This is an Appeal from a Judgment and Decree of the High Court at Madras affirming the decision of the District Judge of South Arcot which dismissed the Appellants' suit with costs.

The High Court refused leave to appeal on the ground that the matter in dispute was below the appealable value. Special leave, however, was granted on the representation that the Appeal raised questions of law of general importance touching the rights of religious bodies in India in regard to public processions, and the right of one religious body to prevent a rival sect and an alien deity from invading precincts apparently public, but devoted or appropriated from time immemorial to the observance of its own peculiar ritual and worship; and at the same time involved the consideration of the effect of previous decisions on similar questions between members of different sects of one and the same community.

The suit was the outcome of a long-standing feud between Vadagalais and Tengalais—two sects of Vaishnava Brahmins residing in the village of Tiruvendipuram in the District of South Arcot. The village contains an ancient Vaishnava Temple dedicated to Devanayaka Swami. Annexed to it is the shrine of a saint named Vedanta Desika, who is held in great veneration by the Vadagalais. The Tengalais, on the other hand, worship a saint said to belong to more modern times and called Manavala Mahamuni. In 1807 a number of Tengalais sued a number of Vadagalais for damages for having prevented them from placing an image of their saint in the Temple. The suit was dismissed, and the idol which the Tengalais had set up was removed by order of the Court. In 1828 the Tengalais set up an image of their saint in a private house and began to hold processions through the streets in its honour. Then a number of the Vadagalais brought a suit against a number of the Tengalais complaining of their having publicly worshipped the saint and carried the idol in procession through the streets. The Vadagalais alleged that the streets traversed by the procession were attached to the Temple, and that the worship of the Tengalai saint was contrary to established custom and usage. Questions were then addressed to the Hindu Pundits. In accordance with their opinion, which seems to have been based not so much on legal grounds as on precepts relating to ritual and ceremonial observances to be found in ancient treatises on such subjects, the Court ordered that the service which the Tengalais had established should be discontinued, and awarded damages to the Plaintiffs. On appeal to the Court of Sudder Adawlut the Decree was varied to the extent of permitting worship of the Tengalai idol in private

houses, while public processions in its honour were prohibited as unauthorized innovations. The feud continued. There was further litigation, and there were divers proceedings before the magistrate with varying success until, in 1886, the then magistrate refused to prohibit the public worship of the Tengalai idol and referred the Vadagalais to the Civil Court. The Vadagalais then moved to enforce the order of the Sudder Adawlut by arrest and imprisonment of certain persons who were descendants of some of the Defendants in the suit of 1828. The Petition was dismissed, and at last the Vadagalais brought the present suit asking for a declaration of their right to prohibit the public worship of the Tengalai idol and processions in its honour, and praying for an injunction accordingly. They based their claim to relief on the allegation that the Vadagalais were originally the owners of all the land in the village, and only allowed houses to be built and streets formed subject to the reservation that no worship or procession of a Tengalai idol should be permitted there. They contended that, even if strict proof of that allegation were wanting, a conditional or limited dedication of the streets to the public should be presumed, and that at any rate they had acquired, by immemorial usage and custom, the right to prevent the worship and processions of any alien deity in their streets. Lastly, they submitted that, so far as Manavala Mahamuni was concerned, the rights of the parties were concluded by the decision in the suit of 1828, and that the matter to that extent was *res judicata*.

Both Courts have decided against the Plaintiffs. It seems to their Lordships that the decision is perfectly right. There is no trace of any evidence tending to show that the site of the village was at any time the private

property of the Vadagalais. The village is an ordinary ryotwari village. The streets are public streets now vested under the Madras Act No. V of 1884 in the local board. All members of the public have equal rights in them. If the Vadagalais had any valid objection to the streets of the village being vested in the Local Board, they had the opportunity of raising the objection by appeal to the Governor-General in accordance with the provisions of the Act. Even if they had had any such rights as they claim in the present suit at the time when the Act of 1884 came into force in the village of Tiruvendipuram, it would be much too late for them to set up such a claim now.

The plea of *res judicata* is equally untenable. The suit of 1828 was not a representative suit binding property, or even designed or framed for the purpose of binding for all time the Tengalai community, if there is any body that can be so described, and if such a suit were competent. It was a suit against certain persons alleged to be wrongdoers in their individual capacity.

The result is that the suit completely fails, and their Lordships may observe that it does not seem to involve such far-reaching issues as were put forward in the petition asking for special leave to appeal.

Their Lordships will therefore humbly advise His Majesty that the Appeal should be dismissed. The Appellants will pay the costs of the Appeal.

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