

**Ragava Vs. Rajaratnam**

**Ragava Vs. Rajaratnam**

**SooperKanoon Citation :** [sooperkanoon.com/776787](http://sooperkanoon.com/776787)

**Court :** Chennai

**Decided On :** Aug-21-1890

**Reported in :** (1891)ILR14Mad57

**Judge :** Arthur J.H. Collins, Kt., C.J. and ;Shephard, J.

**Appellant :** Ragava

**Respondent :** Rajaratnam

**Judgement :**

1. The main question arising in this appeal is whether the respondent, who was not a party on the record, was entitled to apply to the Court to compel the surviving defendant to carry out the terms of the decree.
2. It was admitted in argument by the learned Advocate-General, who appeared for the respondent, that the order appealed against could not be supported except on the supposition that the respondent did, by the order of Mr. Justice hutchins, made on the 8th April 1884, become constructively a party to the suit, and it is clear that, if the respondent is to be regarded as a mere stranger to the record, he can have no locus standi to enforce the decree.
3. The suit, which was filed on the 22nd February 1884, was instituted by two persons, Tengalai Brahmans, claiming to be directly interested in the pagoda. It was a suit instituted under the provisions of Section 539 of the Code, sanction of the Advocate-General having first been obtained. Before the order of the 8th April

was made, certain persons, claiming to represent sections of the Tengalai community and to be more intimately connected with the temple than the plaintiffs, came in and applied to be made parties ' with a view (as they said) to act on behalf of the vast majority of the Tengalai community in the interests of that community.' With reference to, or in consequence of, these applications, the order of the 8th April was passed. That order, after referring to Section 30 of the Code, directs that a proclamation be made ' inviting all persons interested to come in and be made parties themselves or see that some others by whom they are content to be represented are made parties.'

4. Is this an order under Section 30, and, if so, is the respondent a person having the same interest with the plaintiffs, on whose behalf the latter prosecuted the suit? In our opinion, it is clear that the learned Judge did not give and did not intend to give the plaintiffs permission to sue on behalf of other persons having the same interest with themselves in the manner required by the section. Had he so intended, he could not have invited third persons to make themselves parties to the suit.

5. We are further of opinion, on the materials that we have before us, that the respondent is not a person having the same interest with the plaintiff's, for he does not belong to the Tengalai community, the members of which only are, as is stated in the plaint, entitled to take part in the election of dharmakartas or themselves be elected as dharmakartas. Nor does it appear from the decree that the respondent is interested in the same way as the plaintiffs were, for he is only one of the headmen through whom communications are to be made to the members of the Tengalai community.

6. It is unnecessary to express any opinion on the further questions which would have arisen, if the respondent could be regarded as constructively a party to the suit.

7. In our judgment the order appealed against is wrong and must be reversed with costs and the petition of the respondent dismissed.

8. Branson & Branson Attorneys for Respondent.

**SooperKanoon - India's Premier Online Legal Search - [sooperkanoon.com](http://sooperkanoon.com)**