

Krishnaya Vs. Chinnaya

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Court : Chennai

Decided On : Sep-18-1884

Reported in : (1883)ILR7Mad597

Judge : Hutchins and ;Brandt, JJ.

Appellant : Krishnaya

Respondent : Chinnaya

Judgement :

Hutchins, J.

1. The lands in suit formed part of the emoluments of the karnam's office. That office was hereditary in the family of the defendants Nos. 1 and 2 and was held by their father, who consequently enjoyed the lands as his emolument. On the death of their father the office, or at all events the right thereto, devolved on one of them. Whilst the lands were in possession of the sons, the Government resolved that such offices should no longer be remunerated by emoluments in land and that the lands held as such emoluments should be offered to the office-holders if they were willing to pay a prescribed consideration for their enfranchisement. The sons of the deceased accepted the offer and received pattas. The lands enfranchised cannot be regarded as the property of the father and liable to sale for the payment of his debts. They could not have been sold by him, nor attached and sold in his lifetime for payment of his debts. His interest in them ceased when his office was vacated

by his death. The sale to the plaintiff may have been made to defeat the claim of defendant No. 3, but, unless it deprived him of a fund to which he was entitled to resort, he cannot resist it. The appeal must be allowed.

2. The decrees of the Judge and of the Court of First Instance, in so far as they disallowed part of the claim, are reversed and the claim is decreed, the mesne profits to be ascertained in execution of the decree.

3. We direct each party to bear his own costs in the Lower Courts and the appellant to recover his costs in this Court from the respondent.

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