

**Kader Batcha and ors. Vs. Kader Batcha Rowthan and ors.**

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**SooperKanoon Citation :** [sooperkanoon.com/785349](http://sooperkanoon.com/785349)

**Court :** Chennai

**Decided On :** Oct-17-1905

**Reported in :** (1906)ILR29Mad237

**Judge :** S. Subrahmania Ayyar, Officiating C.J.

**Appellant :** Kader Batcha and ors.

**Respondent :** Kader Batcha Rowthan and ors.

**Judgement :**

ORDER

S. Shabrahmania Ayyar, Officiating C.J.

1. No doubt there was no enquiry in this case as to who was in possession of the mosque. The order therefore in so far as it declares possession to be with the second party cannot be maintained and the vakil who represents that party encodes this. As to the real point in question it is clear that a dispute as to a right to use a mosque by persons claiming to be entitled to officiate as Kazis therein is a dispute coming within Section 147 of the Code of Criminal Procedure and Muhammad Musaliar v. Kunji Check Musaliar I.L.R. 11 Mad. 323, so far as it goes confirms the above view. The order will therefore be modified by directing that Ibrahim and Kather Ibrahim shall not be introduced into the mosque to officiate therein, by the five individuals mentioned in the Magistrate's order as forming party No. 1 until the decision of a competent Civil Court recognizing the alleged right is

obtained by them.

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