

Panchanadayan Vs. Nilakandayyan

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Court : Chennai

Decided On : Feb-20-1883

Reported in : (1883)ILR7Mad191

Judge : Charles A. Turner, Kt., C.J. and ;Kindersley, J.

Appellant : Panchanadayan

Respondent : Nilakandayyan

Judgement :

Charles A. Turner, Kt., C.J.

1. It appears that grants of certain lands revenue-free and not merely of the revenue, were made to the ancestors of the parties to the suit and certain other persons, and that the holders of those lands have in course of time acquired a somewhat larger area than was included in the original grants.
2. The interest of the appellant and of his two brothers extends to a one-third share which has not been ascertained by metes and bounds, but of which the profits are nevertheless enjoyed separately from the other co-sharers by the appellant's family.
3. We are of opinion that the nature of the grants is such that they do not come within the provisions of the Pensions Act. That Act contemplates money payments to be received through the Collector or recovered from persons bound to pay

revenue. The decision in *Vasudev Sadashiv Modak v The Collector of Ratnagiri I.L.R., 2 Bom. 99* is in accordance with this view.

4. Holding then that the Civil Court had jurisdiction to entertain the claim it must be determined whether the appellant is entitled to relief in respect of the inam lands in the form in which it is claimed.

5. Seeing that the other persons interested in the inam lands are not parties to the suit, a complete partition could not be ordered, and we see no objection to his obtaining the severance of his joint ownership with his brothers, so that he may hereafter enjoy a sole interest to the extent of a one-ninth share in the inam lands. He is now in possession jointly with his brothers of a one-third share. After partition he will be in separate possession of a one-ninth share or one-third of the one-third share held by the family. The claim for mesne profits prior to suit cannot be sustained.

6. The decree of the Lower Appellate Court so far as it reversed that of the Subordinate Judge will be reversed and the decree of the Subordinate Judge will be affirmed. Proportionate costs in all Courts.

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