

Krishnamacharlu Vs. Rangacharlu

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Court : Chennai

Decided On : Mar-04-1892

Reported in : (1893)ILR16Mad73

Judge : Muttusami Ayyar and ;Best, JJ.

Appellant : Krishnamacharlu

Respondent : Rangacharlu

Judgement :

1. The only question argued is as to the validity of document A. It is urged that Vencatachari, being himself a trustee, had not the power to assign the trust to the plaintiff, and that the lower Courts are in error in decreeing plaintiff's claim.

2. The general rule as laid down by Lord Langdale in *Turner v. Corney* 5 Beav. 517 is that trustees who take on themselves the management of property for others have no right to shift their duty on other persons, and if they do so they remain subject to responsibility towards their cestuis que trustent for whom they have undertaken the duty. As observed by BOWEN, L.J. in *re Speight* 22 Ch.D. 727, the rule that a trustee cannot delegate means simply this, that a man employed to do a thing himself has not the right to get somebody else to do it; but when he is empowered to get it done through others, he may do so. On referring to document A we find that the plaintiff is authorized merely to take possession of the land for nine years, and after deducting from the income the kist, etc., to apply

the balance in the mode described therein, and to keep and render accounts of the receipts and disbursements. Upon its true construction we do not consider that the document evidences an assignment of the trust, but only empowers plaintiff to hold possession of the land for a period of nine years and to collect the income and apply it for the purposes of the trust in the manner indicated by Venkatachari.

3. The provision for rendering accounts indicates that Venkatachari did not intend to divest himself of the responsibility to the cestui que trust. Though the document is headed a 'trust deed,' and plaintiff is therein spoken of as Venkatachari's trustee, the relation created appears to be only that of principal and agent for a limited period without impairing Venkatachari's responsibility to the temple.

4. Having regard to the object with which Venkatachari's grandfather purchased the land in the name of the temple, it seems to us that Venkatachari was only bound to see that the income was duly collected and applied for the benefit of the temple without himself collecting or applying it.

5. It might be a question whether, if the transfer were permanent and absolute, it could be upheld, but that is a question that does not arise, as the decision does not rest on Exhibit D, which was executed subsequently to the institution of the suit.

6. The appeal fails, therefore, and is dismissed with costs.