

Rangasami Vs. Ranga and ors.

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Court : Chennai

Decided On : Sep-16-1892

Reported in : (1893)ILR16Mad146

Judge : Parker and ;Best, JJ.

Appellant : Rangasami

Respondent : Ranga and ors.

Judgement :

Best, J.

1. It is urged on behalf of the appellant that the District Judge is wrong in holding the office, the subject of this suit, to be a religious office and therefore extra commercium.

2. The duties of the office are, it appears, to hold the poles of the God's seat when taken in procession, to tie cloths (parivattam) on the heads of the athar-athars, and to distribute sacred food to the spectators. It is admitted that ('the office) can only be held by a Vaishnava Brahmin; and the duties are performed as part of a religious ceremony. The Judge is therefore right in holding it to be a religious office. As a rule, such offices cannot be the subject of sale. In the present case, however, it has been admitted by the second respondent himself that the office is saleable, and, as a matter of fact, first defendant, by whom it was sold to

appellant, acquired his right to it by purchase. Second respondent, who is the adopted son of first defendant, contended originally that the acquisition by first defendant was made with the joint funds of himself and first defendant, but at the trial he changed his ground and said that the acquisition was with his own money and only benami, in the name of first defendant.

3. Both the Courts have found that the office is the Self-acquisition of first defendant alone.

4. Under these circumstances, I do not think, that second defendant's objection is sustainable, and I would, in allowance of this appeal, set aside the decree of the lower Appellate Court and restore that of the District Munsif, and direct second defendant to pay plaintiff's costs both in the lower Appellate Court and in this Court.

Parker, J.

5. I concur with Mr. Justice Best that the decree of the District Judge may be reversed, and that of the District Munsif restored.

6. As the second defendant alone appealed, the decree should not have been reversed when it was found that he had no interest in the subject-matter of the suit, Neither first defendant nor defendants 3 to 5 appeared before the District Court to raise the question as to the inalienability of the office in question. Had they done so, it would have been necessary for the District Judge to determine whether, by the custom of the particular institution, such alienations were valid [see the Privy Council case of *Rajah Vurmah Valia v. Ravi Vurmah Kunhi Kutti* I.L.R. 1 Mad. 235)]. It was found by the District Munsif that these mirasi offices had usually been the subject of alienation, and that the temple authorities recognized their validity, but the District Judge gave no finding upon this point.

7. I may further point out that the District Judge was also in error in making a decree against first defendant when he had not been made a party to the appeal.

8. The second defendant should pay plaintiff's costs in this appeal and in the lower Appellate Court.

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