

Nagi Reddi Vs. Nanjundappa

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Court : Chennai

Decided On : Apr-19-1939

Reported in : AIR1940Mad761; (1940)2MLJ30

Appellant : Nagi Reddi

Respondent : Nanjundappa

Judgement :

Wadsworth, J.

1. This appeal arises out of a suit in which the plaintiff claimed properties on the basis of an alleged illatom affiliation.
2. The plaintiff married the daughter of one Konda Reddi who died about the year 1909. The facts found are that Konda Reddi at a time when he had no children took the plaintiff into his family apparently with the idea of a regular adoption. Subsequently there were born to Konda Reddi first a son, then a daughter and then another son. After the birth of the son it is found that Konda Reddi, no longer being able to adopt the plaintiff, formed the idea that, in due course, he would marry his daughter to the plaintiff and take the plaintiff as an illatom son-in-law. On this understanding the plaintiff continued to live in the family. But an epidemic of plague intervened, the eldest son being the first victim, followed by Konda Reddi himself about a week later. It is found as a fact that on his deathbed Konda Reddi instructed his wife to complete the illatom affiliation by marrying the daughter to

the plaintiff. It would appear that the plaintiff was a major at the time of Konda Reddi's death. After his death the marriage of the plaintiff to Konda Reddi's daughter was duly carried out by the widow and it is found as a fact by the Courts below that thereafter the plaintiff was treated as the illatom son-in-law of the deceased Konda Reddi, that he lived in the family and managed the properties for his mother-in-law. It is not open in Second Appeal to attack the findings of fact on the essential questions of the authorisation by Konda Reddi to his wife to complete the application and of the subsequent marriage and the status recognised in favour of the plaintiff as an illatom son-in-law. It is, however, contended that there is no finding nor proof of such an agreement as is necessary to form the basis of an illatom adoption.

3. The case has certain peculiarities. In the first place it comes from the Salem District Which is not one of the Districts in which the illatom custom is widely recognised. Another peculiarity is that, according to the Subordinate Judge, the parties belong to the Kammala caste. But I am constrained to conclude that this must be a mistake due to the unfamiliarity of the learned Judge with the Telugu caste name, for the learned. Judge, after stating that the parties are Kammala Reddis, states that this is one of the castes in respect of which Mayne's Hindu Law recognises that the illatom 'practice prevails. Actually the learned author recognises the existence of the custom in the Kamma and Reddi castes, not in the Kammala caste which is quite a different community and one in which, so far as I am aware, it has never been suggested that, this practice peculiar to the various castes which call themselves Reddis can apply. The Kammala caste is essentially a Tamil caste of artisans, not to be confused with the Telugu Kamma caste, which not infrequently adopts the title of Reddi and has strong affinities with the numerous Kapu castes, the members of which are normally known as Reddis. But I am unable to find any basis in the record for the Subordinate Judge's description of this community as Kammala Reddi, The witnesses describe themselves as Reddis simply. Presumably, they must be Kamma Reddis wrongly described by the Subordinate Judge as Kammala Reddis.

4. It was not disputed in the Courts below that the community to which the parties belonged was one which recognises the custom of illatom affiliation. I do not think

that the Subordinate Judge is quite right in saying that the validity of the particular affiliation alleged was not denied; for it is in fact put in issue. The incidents of the very widespread practice of illatom affiliation have not been completely established by judicial decisions and it was recognised by a Bench of this Court in *Subba Rdo v. Mahalakshamma* : AIR1930 Mad883 , that these incidents should ordinarily be settled by evidence in the particular case. There are, however, certain incidents of the custom which have been established by decisions. It is well recognised that an illatom affiliation is a creature of agreement. *Narayadu v. Venkammu* (1890) 22 M.L.J. 265. But I do not think that this means that in every case of an illatom affiliation there must be a detailed contract embodying all the incidents of the arrangement in the particular case. Normally there would be an agreement between the father of the boy, if he was a minor and the prospective father-in-law or, if the prospective son-in-law was a major, between the son-in-law himself and the prospective father-in-law, that the proposed illatom son-in-law should be taken into the family by his prospective father-in-law with a view to his marriage with a daughter of the house and the conferment upon him of the illatom status, with its customary incidents. These customary incidents being well known would not ordinarily be the subject of specific agreement. It is settled by the Privy Council's decision reported in *Krishnamma v. Venkatasubbayya* (1919) 37 M.L.J. 1 : L.R. 46 IndAp 168 : I.L.R. 42 Mad. 805 that the practice of illatom affiliation is frequently followed even when the family into which the son-in-law had been taken has a natural born son living. There is also authority in *Venkayalapatti Venkatachalam v. Negaudla Butchanna* (1911) 11 I.C. 25, for the proposition that, when a boy has been taken into a family on the understanding that he would be married to a daughter and given the status of an illatom son-in-law, the arrangement may be completed by the solemnisation of the marriage even after the death of the prospective father-in-law. I So far as I am aware, it has never been held that a mere arrangement to take a boy as an illatom son-in-law, followed by living in the prospective father-in-law's household, but not followed by marriage to the proposed bride, will complete an illatom affiliation. In the present case it has been found that the plaintiff was taken into the household of Konda Reddi originally with a view -to a regular adoption but, after the birth of a son to Konda Reddi, he continued there under a proposal that he should be married to the daughter and

treated as an illatom son-in-law. It has been found that on his deathbed Konda Reddi asked his wife to complete this arrangement by marrying the daughter to the plaintiff, giving him a share in the property as an illatom son-in-law. It has also been found that the arrangement was completed and the marriage performed and that the plaintiff did live in his mother-in-law's household as an, illatom son-in-law. These findings of fact are in my opinion sufficient to warrant a legal inference that the plaintiff was an illatom son-in-law. It is true that there is no specific evidence of any actual agreement for an illatom affiliation but the whole of, the evidence postulates the assumption that, at the time when the plaintiff was a major, Konda Reddi authorised the completion of an arrangement for illatom affiliation by the marriage of the plaintiff to his daughter. The plaintiff performed his part by marrying the daughter and was thereafter treated as an illatom, son-in-law. From these facts it must, I think, be inferred that there was an agreement on the basis of which, the illatom. affiliation was carried out.

5. In this view, therefore, I dismiss the appeal with costs.

6. Leave refused.