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Court : Chennai

Decided On : Feb-24-1927

Reported in : AIR1927Mad887

Appellant : Achipre

Respondent : Achipre

Judgement :

Wallace, J.

1. The point for decision in this second appeal is whether a tarwad family arrangement, set out in the karar Ex. C, was intended to confer and did confer on the appellant power of management of the property set out in para 2 thereof after the death of the person who was then the Karnavan of the tarwad.

2. On the date of Ex. C, 10-11-14. one Eravi Moosad, the father of the present appellant, was the karnavan and respondent was the anandarvan. The document was signed by Eravi Moosad, by the respondent, by the appellant and by other members of the tarwad. In para 2 it directs that certain powers of management over certain properties of the tarwad are conferred on the appellant, No limit for the period of his management is stated. Eravi Moosad died on 19th July 1915. The appellant contends that as there is no limit put to the period of his management, he is entitled to remain in enjoyment until another family karar puts an end to his management. The respondent contends that the death of the karnavan put an end

to the operation of Ex. C and that, as he has succeeded as karnavan, he is entitled to resume management of all the tarwad properties. The trial Court found in favour of the appellant and the lower appellate Court in favour of the respondent.

3. As noted, Ex. C fixes no limit to the period of the appellant's management. Prima facie then the appellant would be entitled to remain in management till the karar is suspended. But it is contended for the respondent that the usual canon of interpretation of documents does not apply to such tarwad karar and a ruling in Re Cheria Pangiachan v. Unnachalam : (1917)32MLJ323 is called in aid. It is there stated by one of the learned Judges that a family karar entered into by a tarwad with the consent of the de jure karnavan falls to the bound on the death of the de j ire karnavan, and the next de jure karnavan is not bound by the restriction imposed on his predecessor except perhaps when he himself has agreed in that karar to be bound by those restrictions whenever he succeeds to the sthanam. The same view is reiterated in Chindan Nambiar v. Kunhi Raman Nambiar [1918] 41 Mad. 577 The legal theory is explained in Karunakaran Menon v. Kutti Krishna Menon [1917] 5 M. L. W. 511 to be this, that, as it is the karnavan alone who has. the right to manage, such a delegation of powers of management is his act only, and the assent of the other members of the tarwad as evidenced by their subscription to the karar, is merely an assent to the delegation of his powers by the karnavan and no more, except perhaps also a means by which they might restrain the karnavan from subsequently cancelling the delegation. They cannot therefore be said to be then signing away any rights which may come to them on the death of the karnavan, but are merely consenting to the then karnavan delegating some of his powers to to some one else. Such delegation would ipso facto cease on the death of the karnavan who delegated. Respondent, therefore, could not by Ex. C delegate any powers to the appellant because he had none, and the karar therefore does not affect any rights to which he succeeds on the death of the karnavan who had by it delegated his powers. As at present advised I am not prepared to differ from this interpretation of such karars and am not prepared to differ from the lower appellate Court in its interpretation of the legal effect of Ex. C.

4. It is argued further that the respondent has by his conduct shown that he did intend by Ex. C to transfer to the appellant the powers mentioned in para 2 thereof, even when he himself came into the office of karnavan. Certainly on the death of Eravi Moosad he made no attempt to assume the powers of karnavan. According to his own document Ex. Q he consented to the appellant retaining the powers given him under Ex. C and he has even by a power of attorney Ex. T-given him further powers over property not covered by Ex. C. On the other hand, he has on several occasions, as admitted by the trial Court asserted his right as karnavan. He has evidently been shilly shallying over his rights. But in any case it appears to me that Ex. C cannot be interpreted to imply that such renunciation as the respondent made in that document could be revoked by him except by means of a fresh family karar. In Ex. C so far as he renounced anything, he renounced only personal expectations, a renunciation which did not require the consent of the whole tarwad to make it good, and such renunciation would be open to revocation by him alone, a revocation which in its turn would not require the ratification or consent of the other members of the tarwad.

5. In these circumstances I see no reason to interfere and dismiss this appeal with costs.