

Kasi Chetty and ors. Vs. Srimathu Devasikhamony Nataraja Dikshitar and ors.

Kasi Chetty and ors. Vs. Srimathu Devasikhamony Nataraja Dikshitar and ors.

SooperKanoon Citation : sooperkanoon.com/820127

Court : Chennai

Decided On : Aug-22-1912

Reported in : 16Ind.Cas.622

Judge : Miller and; Abdur Rahim, JJ.

Appellant : Kasi Chetty and ors.

Respondent : Srimathu Devasikhamony Nataraja Dikshitar and ors.

Judgement :

1. As regards the question of lease in perpetuity, the effect of the authorities in this Court, of which the most recent is Sreemuth Devasigamani Pandara Sannadhi v. Palaniappa Ohettiar 34 M.K 535 : 9 Ind. Cas. 281 : 20 M.L.J. 969 : (1911) 2 M.W.N. 154 : 9 M.L.T. 83 is to restrict the right of a temple trustee to cases in which there enters at least some element of necessity. It is not here contended that there was any necessity for a permanent lease. We find no reason to refuse to accept the result arrived at by these decisions. We agree with the Subordinate Judge that Exhibit IV-A is invalid.

2. As to the plaintiff's right to sue, we see no reason why he should not maintain the suit whether he is, or is not in law, the trustee of the temple, a matter which we need not and do not decide. He is admittedly one of the disciples attached to the

mutt, and is in possession of the property in suit and managing the affairs of the temple to which the property belongs and sues on behalf of the temple.

3. Then, as to the question of repairs; on the assumption that Section 51 of the Transfer of Property Act is applicable, a question on which we express no opinion, we want stronger evidence than has been put before us to enable us to hold that the 1st defendant bona fide believed himself entitled to the permanent occupation of the land.

4. We dismiss the appeal with costs.

5. The memorandum, of objections is dismissed with costs.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com