

APPELLATE CIVIL.

Before Sir W. Morgan, C.J. and Mr. Justice Holloway.

1876.
July 28.

CHEMMINIKARA MUPPIL NAIR (PLAINTIFF), SPECIAL APPELLANT
v. KILIYANAT UKONA MENON (1ST DEFENDANT), SPECIAL
RESPONDENT.*

Malabar Law.—Alienability of "Sthánam" Lands.

LANDS attached to the "sthánam" of Sthánamdars in Malabar are, unless the contrary be specifically proved in any particular case, liable to alienation and charge, at all events for the payment of debts incurred for the conservation of the sthánam.

The plaintiff (special appellant) sued to set aside the attachment and sale of certain lands belonging to his "sthánam," made in execution of a decree obtained against his predecessor in the sthánamdarship, and to recover the same, on the ground that, being lands appertaining to his "sthánam," they were not liable to be sold.

The 1st defendant (special respondent) and six others (defendants) were the purchasers at the sale. The defendants 2nd to 7th were *ex-parte*.

The District Munsiff (of Shernal) held that the property belonging to the plaintiff's sthánam was inalienable, and also that the judgment debt which led to the sale was not contracted for the purposes of the sthánam; and that the sale was therefore invalid; and he therefore decreed for the plaintiff.

On appeal to the District Court (of South Malabar), that Court reversed the District Munsiff's decree, and dismissed the suit, being of opinion that sthánam property was not of the inviolable nature which was attributed to it by persons in that district, nor more sacred than zamíndári property; and that the debt for which the sthánam property sued for had been sold had been contracted for legitimate purposes binding on it, *viz.*, for carrying on suits for the purpose of recovering lands formerly belonging to the sthánam and which had been lost by a predecessor's default, for performing funeral and marriage ceremonies, and for repairing the sthánam house.

Mr. Handley, for the special appellant.

* Special Appeal No. 383 of 1876, against the decree of the District Judge of South Malabar, dated 27th January 1876.

The *Advocate-General* for the special respondent.

The judgment of the High Court was delivered by MR. JUSTICE HOLLOWAY as follows:—

In the case of the Zamorin there are decisions that the property of his house is held on terms different to those of others. In his case, however, it has never been decided that the property attached to his sthánam is not liable for debts incurred for its conservation. He stands in a peculiar position, and, as has been before pointed out, there is the strongest presumption against any other family having a right to claim exception from the general law of the Courts. A case occurred in which an attempt to magnify their own importance had been continued by a family through a long series of years. Their pretence to a sthánam of a peculiar kind was found to have no foundation, as had, indeed, been decided by the Provincial Court at the beginning of the century.

The probability is, that this claim is wholly unfounded. That it is unfounded for the purpose for which it is here sought to use it, is undoubted.

Appeal dismissed with costs.

1876.

CHEMMINI-
KARA MUPPIE
NAIR
v.
KILIYANAT
UKONA
MENON.

FULL BENCH.

Before Sir W. Morgan, C.J., and Innes and Kernan, JJ.

Appeal No. 21 of 1875.

THE COLLECTOR OF SEA CUSTOMS, MADRAS (DEFENDANT),
APPELLANT, v. PUNNIAR CHITHAMBARAM (PLAINTIFF),
RESPONDENT.

Suit against Officer of Sea Customs at Madras for act done without jurisdiction.—Jurisdiction of High Court—Jurisdiction of District Court of Chingleput.

Protection under Act XVII of 1850.—Bonâ fide belief.

Previous decision of chief Customs authority under Act VI of 1863, s. 220.—Res judicata.

The defendant, who was collector of sea customs at Madras, professing to act under the 24th section of Act VI of 1863, imposed a fine on the plaintiff, over whom he had no jurisdiction, and seized the property of the plaintiff, with a view to realizing such fine. *Held* on a consideration of all the circumstances of the case

1874.
Mar. 27.

1875
Jan. 21
Feb
August
Sept

187
Mar. 1
May
August