

APPELLATE CIVIL.

Before Sir Charles A. Turner, Kt., Chief Justice, and Mr. Justice Kindersley.

1880.
November 15. **THE SECRETARY OF STATE FOR INDIA AND ANOTHER (SECOND AND THIRD DEFENDANTS), APPELLANTS, v. ABDUL HAKKIM KHAN (PLAINTIFF), RESPONDENT.***

Endowments for religious purposes—Pensions Act of 1871.

When the object of the endowment was to provide for certain religious and pious purposes, *Held* that the provisions of the Pensions Act were not applicable to it. "Pensions and Grants" in that Act meant personal grants and not grants to endowments.

THIS was an appeal against the decree of C. J. Plumer, District Judge of North Arcot, in Original Suit No. 11 of 1878.

The village of Virthambatta was granted by the Nawáb of Arcot to the ancestors of the plaintiff for the purpose of defraying expenses connected with the maintenance of the tombs of Nawáb Kyrudín Khán and his sons, and of certain religious ceremonies to be performed at the tombs. The plaintiff's ancestors and the plaintiff continued to keep the tombs in repair and to perform the ceremonies. The third defendant (the Collector of North Arcot) represented to Government that the plaintiff did not properly conduct the services, and recommended his removal from office and the appointment of the first plaintiff in his stead. The Government made an order to that effect on 20th July 1877. The plaintiff instituted the suit for the cancelment of the order made by Government and for the establishment of his right to the management of the Inám. He alleged that Government had no power to disturb his possession and that he could not be removed from management except by a decree of the District Court under the provisions of the Religious Endowment Act (Act XX of 1863). The defendants denied the jurisdiction of the District Court to entertain the suit and

* Appeal No. 79 of 1879 against the decree of C. J. Plumer, District Judge of North Arcot, dated 27th March 1879.

contended that the matter was governed by Section 4 of the Pensions Act of 1871. The District Judge overruled the objection and cancelled the order made by Government. An appeal was made to the High Court on the grounds that the Pensions Act applied to the grant in question.

THE SECRETARY OF
STATE FOR
INDIA
v.
ABDUL HAK-
KIM KHÁN.

The Government Pleader (Mr. *Handley*), for the Appellants.

Mr. *J. H. S. Branson*, Mr. *Johnstone*, and *O. G. Kuppusámi Áyyar*, for the Respondent.

The Court (*TURNER, C.J.*, and *KINDERSLEY, J.*) delivered the following

JUDGMENT.—So far as any evidence is available, the object of the endowment in suit was to provide for certain religious as well as pious purposes in connection with the tombs of the Nawáb Kyrudín Khán and some of his relations. We are of opinion that the provisions of the Pensions Act are not applicable to such an endowment: by “Pensions and Grants,” read in connection with the rest of the Act, we understand personal grants and not grants to endowments of the nature now under consideration. Having regard to the public religious services, it was intended should be maintained thereout, the endowment appears to fall within the provisions of Act XX of 1863. We must then affirm the decree of the District Court and dismiss the appeal with costs.

Appeal dismissed.

APPELLATE CIVIL.

Before Mr. Justice Innes and Mr. Justice Muttrusámi Áyyar.

BISHOP MELLUS AND 3 OTHERS (DEFENDANTS), APPELLANTS, v. THE VICAR APOSTOLIC OF MALABAR AND 8 OTHERS (PLAINTIFFS), RESPONDENTS.*

1879.
March 26.

Plaint, amendment of—Secondary evidence of letter after service of notice on defendant out of jurisdiction—Church property, Effect of change of form of worship by congregation on.

Section 53 of the Civil Procedure Code which provides that a plaintiff cannot be amended so as to convert a suit of one character into a suit of another, and inconsistent

* Appeal No. 56 of 1878 against the decree of H. Wigram, Officiating District Judge of South Malabar, dated 29th March 1878.