Karanavan. That while a bare pittance would discourage separate residence and maintenance, a slight charge upon the tárawád property to be made good by the Karanavan would induce him to restore the discontented Anandravan.

The decree of the Court of First Instance was reversed and the plaintiff allowed maintenance for the time claimed at the rate of Rupees 2 per mensem.

Against this decree the defendant appealed on the ground that it was a well established rule of Malabar law that an Anandravan cannot claim maintenance separate from his tárawád.

Mr. *Lascelles* for the Appellant.

P. V. Rangachariar for the Respondent.

The Court delivered the following

JUDGMENT:—We cannot say that the District Judge is wrong. Maintenance is provided by the karár. Though the general rule is that an Anandravan cannot have separate maintenance, there may be rare exceptions, and this case the Judge has found is one as the Karanavan has been the cause of quarrels which necessitated the plaintiff leaving the family house. The maintenance granted is intended to discourage such applications, viz., Rupees 2 per mensem.

We dismiss the second appeal with costs.

Appeal dismissed.

APPELLATE CIVIL.

Before Mr. Justice Kindersley and Mr. Justice Muttusámi Ayyar.

VENKATASUBBARAMÁYYA (PLAINTIFF), APPELLANT *v.* SURAYYA (2ND DEFENDANT), RESPONDENT.*

1880. August 18.

Suit to recover office of Karnam—Limitation.

The plaintiff's adoptive father was dismissed from the office of karnam on the 4th of April 1862 and the plaintiff, was appointed in his stead on the 29th April 1865. On the 25th September 1865 the plaintiff was dismissed and the second defendant appointed. The present suit for recovery of the office and land attached was filed on 21st September 1877.

* Second Appeal No. 337 of 1880 against the decree of J. Kelsall, Acting District Judge of Godávari, dated 22nd November 1879, reversing the decree of the District Munsif's Court of Rajahmundry, dated 6th September 1878.

VENKATASUBBARAMÁYYA v. SURAYYA.

Held on the authority of *Tammirazu Rámazogi* v. *Pantina Narsiah* (1) that the suit was barred, not having been brought within six years from the 25th September 1865.

Maharana Fattehsangji Jasivatsangji v. *Dessai Kalleanraiji Hekumutraiji* (2) discussed.

THIS was a suit for the recovery of the office of karnam in a zemindárí village and of the land attached to that office. The second defendant pleaded that the suit was barred by limitation. The District Munsif holding that the suit was not barred, gave a decree in favor of the plaintiff.

On appeal the District Judge, on the authority of *Tammirazu Rámazogi* v. *Pantina Narsiah* (1) reversed the decree of the Lower Court.

The plaintiff presented a second appeal on the ground that the suit was not barred.

Mr. *Johnstone* for the Appellant

P. V. Rangacharry for the Respondent.

The facts of the case fully appear from the judgment.

JUDGMENT :—This suit was brought to recover the office of karnam of the village of Jengamareddygudiem, and for possession of the Inam lands attached to the office and for further produce.

The District Munsif decreed the office and lands to the plaintiff.

The second defendant, who was in possession, had pleaded that the suit was barred by the Act for the limitation of suits. He appealed against the decree of the District Munsif, and the District Judge, upon the authority of *Tammirazu Ramazogi* v. *Pantina Narsiah*, (1) held that the suit not having been brought within six years of the 25th September 1865 was barred by Clause 16, Schedule 1, of Act XIV of 1859. The question is whether the suit is so barred.

The facts are that the plaintiff's father was dismissed from the office of karnam on the 4th April 1862, because he was suspected of having been concerned in hushing up a murder. His adopted son, the present plaintiff, was appointed, instead of his father, on the 29th April 1865. Afterwards, the Head Assistant Collector, acting under the Court of Wards, dismissed the plaintiff from the

(1) 6 Mad. H.C. Rep., 301.

(2) L.R. 1 Ind. Ap., 34.

office, simply because his father had been suspected of hushing up a murder. That dismissal took place on the 25th September 1865, when the defendant was appointed instead of the plaintiff, and this suit was brought within twelve, but not within six, years from that date.

Madras Regulation XXIX of 1802, Section 5, provides that (in a permanently-settled district) karnams shall not be dismissed from their offices, except by the sentence of a Court of Judicature.

In the case of *Tamnirazu Rámazogi* v. *Pantina Narsiah* (1) on which the District Judge relies, it was held that the right to the land being only a secondary claim in the suit, and dependent upon the plaintiff's title to the office of karnam, the lapse of six years from the time of the alleged ouster by the defendant was fatal to the suit. We do not think that that decision has been overruled by that of the Judicial Committee of the Privy Council in *Maharana Fattehsangji Tasivatsangji* v. *Dessai Kallianraiji Hekumutraiji* (2). That decision was on appeal from a decree of the High Court at Bombay, and the Judicial Committee noticed two decisions of that Court in which it had been held, upon the authority of certain texts of Hindu law, that an hereditary office was classed as immovable property; and that, inasmuch as the term "immovable property" was not defined by the Act, it must, when the question concerns the rights of Hindus, be taken to include whatever the Hindu law classed as immovable, although not such in the ordinary acceptation of the word. To the application of this rule within proper limits their Lordships saw no objection. The question must, they said, in every case be whether the subject of the suit is in the nature of immovable property, or of an interest in immovable property; and if its nature and quality could only be determined by Hindu law and usage, the Hindu law might properly be invoked for that purpose.

In the case before their Lordships, however, which was a suit to recover what is known in Bombay as a toda giras haq, the question whether that was immovable property was not to be determined by Hindu law, because it was sometimes held by Muhammadans and might be held by Parsees or Christians. And

(1) 6 Mad. H.C. Rep., 301.
(2) L.R., 1 Ind. Ap., 34.

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their Lordships were of opinion that the applicability of particular sections of the general statute of limitations must be determined by the nature of the thing sued for, and not by the status, race, character, or religion of the parties to the suit.

We are not now concerned with the nature of a toda giras haq. The present case relates to the office of karnam, or village accountant. It is an office in no way connected with the Hindu religion or usages; and, although it has almost invariably been held by Hindus of the accountant caste, that is merely due to their aptitude for the duties. There is nothing to prevent its being held by a Christian or a Muhammadan. Therefore, we see no reason why the expression "immovable property" in the present case should be construed by the light of ancient Hindu texts. The case of *Tammirazu Ramazogi* v. *Pantina Narsiah* (1) was not noticed by the Judicial Committee in their judgment just quoted, and certainly it was not overruled. We are therefore bound to follow it. We, therefore, think that the decree of the District Judge must be affirmed and this second appeal dismissed with costs.

Appeal dismissed.

PRIVY COUNCIL.

P.C.* 1880. November 11.

PEDDA RA'MAPPA (DEFENDANT), *v.* BANGARI SE'SHAMMA (PLAINTIFF).

[On appeal from the High Court of Judicature at Madras.]

Hindu law of succession to an impartible inheritance among sons of different mothers—Primogeniture.

The principles on which is founded the Judgment in *Rámalakshmi Ammál* v. *Sivanantha Perumal Ammál* (2) as to the succession to an impartible inheritance apply with equal force whether the first-born son is born of a first married wife or of a wife afterwards married.

The text of *Manu*, chap. ix, v. 125, distinctly shows that among sons born of wives equal in their class, and without any other distinction, there can be no seniority in right of the mother. In v. 122 of the same chapter the words "but of

(1) 6 Mad. H.C. Rep., 301.

* *Present*:—Sir J. W. COLVILE, Sir M. E. SMITH, and Sir R. P. COLLIER.

(2) 14 Moo. I.A., 570.