

APPELLATE CIVIL.

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

1880.
January 7.

VIRASA MINA YUDU (FIRST DEFENDANT), APPELLANT, v. ARUNA-
CHELLA CHETTI AND 2 OTHERS (PLAINTIFFS), RESPONDENTS.*

Dharmakarta, dismissal of—Parties to suit for.

In a suit brought for the dismissal of a Dharmakarta all the members of the district committee should join as parties. The district committee cannot divest themselves of their rights in favor of a few of their number.

APPEAL against the decree of the Subordinate Judge of South Arcot in Original Suit No. 16 of 1878.

The *Advocate-General* and *A. Subbaráyalu Reddiar* for the Appellant.

A. Rámachandráyyár for the Respondents.

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

JUDGMENT:—The suit has been brought by three gentlemen, who are described as members of the Temple Committee for the Cuddalore Taluk, to establish their right to the management of the pagoda of Sri Padalivaraswámi at Tirupatirupuliur, and to recover possession of the pagoda and its property from the appellant, the former Dharmakarta, and other persons, who, with the appellant's permission, have respectively taken possession of portions of the lands appertaining to the temple.

The appellant pleaded in the Court of First Instance (among other pleas) that the respondents had no *locus standi*, inasmuch as the Government had not appointed a special committee for the taluk, but a committee of the whole district, of which committee other persons are members who have not joined in this suit.

It is argued, on the part of the respondents, that it is not necessary that all the members of the committee should join in

* Appeal No. 93 of 1879 against the decree of K. Kunjan Menon, Subordinate Judge of South Arcot, dated 9th December 1878.

the suit, and that some of them may sue on the part of themselves and of the other members of the committee; and secondly, that inasmuch as for the past fifteen years the pagoda has been under the special management of the body whom the respondents claim to constitute, and that body has been recognized as a distinct committee by the appellant himself, he cannot rely on the plea of defect of parties. It is not shown that the Government, acting in the exercise of the powers given it by Act XX of 1863, created any committee other than the committee for the whole district. It may be assumed that, for the more convenient discharge of the duties confided to it, the committee entrusted the immediate supervision of the religious institutions of particular taluks to certain members of the committee who were specially interested therein, or had special facilities for discharging the functions of the committee; but the committee could not divest itself of its rights in favor of some of its members. The superintendence of the pagoda appertains to the whole committee (if it appertains to any of its members as members of a committee under the Act), and similarly the right to appoint or discharge Dharmakartas, and the right to recover possession of the property, belongs, if to any of the members as such members, to the whole committee, and, moreover, the respondents have not sued on behalf of themselves and the other members of the district committee. On the contrary, they have based their claim on their alleged status as members of a taluk committee, and in that character have claimed a declaration of their right of superintendence and the recovery of the property of the pagoda. Nor can it be held that the appellant is estopped from raising this plea. He received his appointment before the establishment of the committee, and may properly have corresponded with the particular section of the committee which occupied itself with the affairs of the pagoda in suit. On the ground that such rights, if established, would belong to the whole committee, and not to a section of it, we are constrained to hold the suit as framed cannot be maintained. The decree of the Court of First Instance is reversed and the suit dismissed with costs.

VIRASAMI
NAYUDU
v.
ARUNACHELLA
CHETTI.