

appeal is in part decreed. The decrees of the Courts below, so far as they decree the claim, must be reversed, except in so far as they award the claim for arrears of rent for three years. Proportionate costs in all Courts.

UMMER  
KUTTI  
v.  
ABDUL  
KADAR.

## APPELLATE CIVIL.

*Before Mr. Justice Kernan and Mr. Justice Forbes.*

· KUNJUNNERI NAMBIAR (THIRD DEFENDANT), APPELLANT, v.  
· NILAKUNDEN (PLAINTIFF), RESPONDENT.\*

1880.  
November 10.

*Suit—Karaima Samudáyam—Uralers.*

Plaintiff, alleging himself to be “Karaima Samudáyam” of the Malamal Ayyappan Dévaswam, sued to redeem lands which had been mortgaged by the Dévaswam. *Held* that he was not entitled to maintain the suit; that the Uralers are the persons in whom the estate and property of the temple is vested, and that the plaintiff was an agent accountable to the Uralers and subject to be dismissed by them for misconduct.

THIS suit was brought to redeem a mortgage of certain lands in Malabar, the property of the Malamal Ayyappan Dévaswam. The plaintiff alleged himself to be the Karaima Samudáyam (hereditary manager) of the dévaswam.

The District Munsif in his judgment dismissing the suit made the following observations:—“The plaint alleges that plaintiff is the Karaima Samudáyam of the Malamal Ayyappan Dévaswam.

“The mortgage documents sued upon recited the word ‘Samudáyam,’ but make no mention of the word ‘Karaima Samudáyam.’ The plaintiff has stated in his deposition that it has been the practice for thirty years to insert in documents the words ‘Karaima Samudáyam.’ If a practice which was not in existence thirty years ago has since been begun, it is necessary that there should be some special documentary authority from the Uralers. The plaintiff does not allege or produce any such document.” . . . . . “The single fact that members of the plaintiff’s house have as Samudáyam looked after the business of the Malamal Ayyappan Pagoda is not sufficient to establish the Karaima Samudáyamship of the house.

\* Second Appeal No. 482 of 1880 against the decree of T. V. Ponnusámi, Subordinate Judge of South Malabar, dated 8th March 1880, reversing the decree of the Court of the District Munsif of Kutnád, dated 22nd December 1879.

KUNJUNNERI  
NAMBIAK  
v.  
NILAKUNDEN.

The office of Samudáyam is similar to that of an agent and is never entitled to the property of the pagoda. The Uralers are the owners. When the Samudáyam does not attend to the orders of the Uralers and questions their authority, they are entitled to dismiss him from his office."

The Subordinate Judge reversed the finding of the District Munsif on the ground that, for the purposes of the present suit, the Samudáyamship was a hereditary one, and therefore that the plaintiff was entitled to bring the suit.

The third defendant preferred a second appeal on the ground, that the plaintiff had no right to sue for the lands without the consent of the Uralers, and that such consent had not been proved.

Mr. *Shepherd* for Appellant.

Mr. *J. H. S. Branson* for Respondent.

The Court (KERNAN and FORBES, JJ.) delivered the following

JUDGMENT:—The decree of the Subordinate Judge, declaring that the plaintiff (alleging himself to be Karaima Samudáyam) was entitled to maintain this suit, is wrong. We will follow the decision in *Ráma Varar v. Krishnen Nambudri*.<sup>(1)</sup> The Uralers in this case applied to be made parties in the Court of First Instance, but the application was opposed by the plaintiff and was refused; and it is plain, upon the papers, that there is some hostility between the plaintiff and the Uralers.

The Uralers are the persons in whom the estate and property of the temple is vested. The plaintiff is an agent accountable to the Uralers and subject to be dismissed by them for misconduct.

We reverse the decree of the Lower Appellate Court and restore the decree of dismissal by the Munsif, with costs.

*Appeal allowed.*

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(1) Reported in this volume.