

[4 Mad. 169.]

## APPELLATE CIVIL.

*The 20th September, 1881.*

PRESENT :

SIR CHARLES A. TURNER, KT., CHIEF JUSTICE, AND MR. JUSTICE  
KINDERSLEY.

Chalayil Kandotha Nallakandiyil Parvadi and another... (Plaintiffs), Appellants  
*and*  
 Chalayil Kandotha Chathu Nambiar..... (Defendant), Respondent.\*

*Malabar Law—Right to separate maintenance in 'Taverai' house.*

A member of a tarwad divided into 'Taverais' with separate dwelling houses may claim to be maintained by the Karnavan in the house of the 'Taverai' to which he or she belongs.

THE plaintiff in this case, a member of a Malabar tarwad, sued the Karnavan to recover Rs. 131-6-9, being maintenance claimed for one year. It was alleged by the plaintiff that the tarwad consisted of four Taverais or branches, and that she and her children lived in one of the 'Taverai' houses and were entitled to be maintained there by the Karnavan.

The defendant *inter alia* pleaded that if plaintiff was entitled to maintenance she was bound to live in the tarwad house.

The main issue in the suit was whether plaintiff was entitled to separate maintenance or not.

The Munsif dismissed the suit on various grounds, and on appeal the District Judge disposed of the suit as follows:—

"The doctrine laid down in *Kunigaratu v. Arrangaden* (2 M. H. C. R., 12) that the members of a family following *Marumakkatayam* are only entitled to maintenance in the family house, is one that insures [170] that due discipline and subordination to the Karnavan without which the community called the tarwad is so difficult to manage.

"In this instance certain members of the family live in separate buildings belonging to the tarwad, and it appears to have been the practice of the Karnavan to allot separate amounts of paddy and money to those living in those buildings. When matters come, however, to an individual member requiring maintenance outside the tarwad house as a right, it will, I conceive, be more beneficial to the interests and peace of the tarwad, otherwise liable to be rent and distracted by numerous suits by different members, to adhere to the abovementioned doctrine, and refuse prayers for separate allotments outside the tarwad house. A member going to the family house and being refused maintenance there may, according to that doctrine, pray a Court to compel the Karnavan to maintain him or her *there*.

"This family, it is evident by the litigation in Original Suit No. 54 of 1875 and its Appeal No. 228 of 1875, is one in which there has not been due subordination to the Karnavan which there ought to be, and hence this dispute has, I believe, arisen.

\* Second Appeal No. 653 of 1880 against the decree of J. W. Reid, District Judge of North Malabar, modifying the decree of D. D' Cruz, District Munsif of Chavacheri, dated 26th February 1880.

“ I therefore shall only modify the decree of the Munsif by ordering each party to bear their own costs. I do so because this is essentially a family dispute not wanting in *bona fides*, and it is certain that the plaintiff has not got her full share of materials for maintenance, and though I do not say plaintiff has a right to ask it in the way she has, it would be just and honourable on the Karnavan's part to give her help towards her maintenance in 1053.”

The plaintiff appealed to the High Court.

*Bamachandrayyar* for Appellants.

*Spring Branson* for Respondent.

The arguments in this case appear in the judgment of the Court (TURNER, C. J., KINDERSLEY, J.).

**Judgment.**—The general rule that a member of the tarwad is not entitled to maintenance if she ceases to reside in the family house, is not contravened by the recognition of a right to maintenance in a member residing in one of several houses which convenience or necessity has, as it were, affiliated to the original tarwad home as places of residence for members of the tarwad. [171] The Judge must, therefore, dispose of the appeal on the merits. The appeal is allowed and the decree of the Lower Appellate Court set aside, and the case remanded to the Lower Appellate Court for retrial. The costs of this appeal will abide and follow the result.

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[4 Mad. 171.]

APPELLATE CIVIL.

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The 20th September, 1881.

PRESENT :

MR. JUSTICE INNES AND MR. JUSTICE TARRANT.

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Putanvital Teyan Nair.....(First Plaintiff) Appellant

and

Putinvital Ragavan Nair.....(Defendant) Respondent.\*

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*Malabar Law—Right of misbehaving Anandravan with private property to maintenance.*

A Karnavan (manager) of a Malabar tarwad (family) is not justified in excluding an Anandravan (junior member) from participation in the income of the family property on the ground of misbehaviour or because the Anandravan has other property of his own.

THE facts and arguments in this case appear sufficiently, for the purpose of this report, in the judgment of the Court (INNES and TARRANT, JJ.).

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\* Second Appeal No. 265 of 1881 against the decree of H. Wigram, Officiating District Judge of South Malabar, confirming the decree of A. Camaran Nair, District Munsif of Temelprom, dated 10th December 1880.