

## APPELLATE CIVIL.

Before Sir Arthur J. H. Collins, Kt., Chief Justice, and  
Mr. Justice Parker.

TIMMA AND OTHERS (DEFENDANTS), APPELLANTS,  
and

DARAMMA AND ANOTHER (PLAINTIFFS), RESPONDENTS.\*

*Aliyasantána law—Partition—Evidence—Admissibility as to pedigree in a document  
that has been set aside by the Court.*

In a suit for division of the property of an extinct divided branch of the family of the parties who were governed by the Aliyasantána law, a written agreement which had been set aside by the Court as against the defendants was offered in evidence by the plaintiff to prove that the parties were of equal grade of relationship, in which case it was admitted that partition was enforceable :

*Held*, that the written agreement was admissible as evidence of pedigree and that the plaintiff was entitled to the decree sought for.

SECOND appeal against the decree of C. Venkoba Charyár, Subordinate Judge of South Canara, in Appeal Suit No. 147 of 1885, confirming the decree of U. Subba Ráu, District Múnshif of Karkal, in Original Suit No. 120 of 1884.

This was a suit by the plaintiffs to recover a moiety of certain property belonging to one Puvani Surgi, deceased, the last member of a divided branch of the family of the plaintiffs and defendants. The parties were governed by the Aliyasantána law.

In order to prove the relationship of the parties, the plaintiffs relied partly on exhibit J, that document being a certified copy of a kararnama entered into by the plaintiff and an ancestor of defendant No. 1 on 7th August 1877, which had been set aside as against the defendants in a previous suit.

Both the Lower Courts decreed in favor of the plaintiffs, and the defendant preferred this second appeal.

*Náráyana Ráu* for appellants admitted that a division can be enforced under the Aliyasantána law if the reversioners stand in equal grade of relationship, but argued that in other cases a division is not enforceable and contended that the contents of exhibit J were not admissible as evidence as to the relationship of the parties.

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\* Second Appeal No. 276 of 1886.

*Gápála Ráu* for respondents argued that the document was admissible in evidence though invalid as an agreement.

TIMMA  
v.  
DARAMMA.

The Subordinate Judge found (on an issue remitted to him by the High Court) that the parties were reversioners of equal grade to the Surgis.

On the receipt of the finding, the Court (Collins, C.J., and Parker, J.) delivered the following

JUDGMENT :—We must accept the finding.

Though the *karamama* J was set aside on other grounds, we see no reason why the relationship therein set forth should not be considered; and though the evidence is partly hearsay, such evidence is admissible on questions of pedigree.

This second appeal fails and we dismiss it with costs.

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## APPELLATE CIVIL.

*Before Sir Arthur J. H. Collins, Kt., Chief Justice, and  
Mr. Justice Muttusámi Ayyar.*

NÁRÁYANA (DEFENDANT), APPELLANT,

and

MUNI AND OTHERS (PLAINTIFFS), RESPONDENTS.\*

1886.  
July 22, 26.  
Nov. 10.

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*Civil Procedure Code, s. 584—Powers of High Court on second appeal—Rent Recovery Act—Madras Act VIII of 1865, ss. 3, 4 and 7—Contents of pattá—Date of tender of pattá.*

A landlord within three days of the end of the *fasli* tendered to a tenant by way of *pattá* a document containing a statement of account of rent payable in respect of the current *fasli* :

*Held*, that the document tendered was a good *pattá*, and that under local custom a valid tender of *pattá* may be made at the end of the *fasli*.

On second appeal by a landlord against a decree of a District Judge, who stated in his judgment that "though the tenant admitted the execution of the *muchalká*, it was not shown that he dispensed with the *pattá*;" no objection was taken in the memorandum of appeal that the *muchalká*, which contained a statement that no *pattá* was necessary, had been neglected or misconstrued. The High Court ordered that the Judge be asked to take the postscript into his consideration and submit a revised finding.

SECOND appeals against the decrees of H. T. Knox, Acting District Judge of North Arcot, in Appeal Suits Nos. 112 to 122

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\* Second Appeals Nos. 1006 to 1015 and 1035 of 1885.