

JUDGMENT:—We are of opinion that the construction placed by the Judge on Exhibit A is correct. The words, “when the paramba is demanded, I shall restore,” are inconsistent with the intention that the terms should continue for 12 years certain. It is no doubt true that when a kanam is granted, the primary intention is that it should be redeemed after the expiration of 12 years. But when that intention is negatived, either expressly or by necessary implication by a special clause, we do not consider that we are at liberty to introduce into the document words which we do not find in it, so to render the special provision operative only on the expiration of 12 years. The language of the document referred to in *Puthenpurayil Kuridipravan Kanara Kurup v. Puthenpurayil Kuridipravan Gocindan* (1) is not the same as in Exhibit A, nor have we that document before us. We consider that the second appeal cannot be supported, and we dismiss it with costs.

AHMED
KUTTI
v.
KUNHAMED.

APPELLATE CIVIL.

Before Mr. Justice Kernan and Mr. Justice Brandt.

BURGESS AND OTHERS (PLAINTIFFS),

and

SIDDEN AND ANOTHER (DEFENDANTS).*

1887.
February 25.

Civil Procedure Code, ss. 404, 406—Application for permission to sue as paupers presented by several paupers jointly.

The mere fact that several persons jointly present an application for permission to sue as paupers does not authorize the Court to entertain it on behalf of applicants who do not appear in person.

THIS was a case referred for the orders of the High Court under s. 617 of the Code of Civil Procedure by W. E. T. Clarke, Subordinate Judge, Nilgiris.

The case was stated as follows:—

“A pauper petition for recovery from the executors under the will of the late Thomas Sidden of the sum of Rs. 3,888 (being 12 years’ maintenance) and of Rs. 3,600, the corpus of a trust fund deposited with the said Thomas Sidden and further interest, &c., was presented to me on the 29th September 1886.

(1) I.L.R., 5 Mad., 311.

* Referred Case 8 of 1886.

BURGESS
v.
SIDDEN.

“ The parties to this petition are five in number, all resident beyond the jurisdiction of this Court.

“ The petition was presented to me by fifth petitioner only in person ; the said fifth petitioner produced no authority authorizing him to appear and act for the other petitioners, but vakaluts were put in with the petition by which 1, 2, 3 and 5 petitioners empowered Messrs. Cowdell and Co., Solicitors at Ootacamund, to appear for them, together with a power of attorney by which petitioner No. 4 apparently authorized petitioner No. 1 to act for her in recovering the moneys alleged to be due to petitioners by the representatives of the late Mr. Sidden.”

Counsel were not instructed.

The Court (Kernan and Brandt, JJ.) delivered the following

JUDGMENT :—An application to sue as a pauper must be made to the Court by the applicant in person, unless he is exempted under s. 640 or 641 from appearing in Court (which is not the case here), and it is only in the case of persons so exempted that the application may be presented by a duly authorized agent.

The mere fact that several pauper applicants jointly present an application cannot authorize the Court to entertain it on behalf of applicants who do not appear in person.

The application in this case was not presented on behalf of the petitioners who did not appear by an agent duly authorized to appear under s. 404, and therefore the provisions of s. 406 do not apply.

APPELLATE CIVIL.

Before Mr. Justice Kernan and Mr. Justice Brandt.

SÍRIAH AND OTHERS (PLAINTIFFS),

and

MÚCKANÁCHÁRY AND OTHERS (DEFENDANTS).*

Civil Procedure Code, ss. 268, 284, 287 (e), 301—Attachment of a debt due to a Judgment-debtor—Sale of debt—Payment into Court—Prohibitory order.

A decree-holder by a prohibitory order made under s. 268 (α) of the Civil Procedure Code attached a debt due to his judgment-debtor. The debt was not paid into Court :

* Referred Case 11 of 1868.