

APPELLATE CIVIL.

Before Mr. Justice Muttusámi Ayyar and Mr. Justice Parker.

1887.
Sept. 16.

RANGASÁMI AND ANOTHER (DEFENDANTS NOS. 1 AND 2), PETITIONERS,
and

MUTTUSÁMI (PLAINTIFF), RESPONDENT.*

Civil Procedure Code, ss. 516, 622.

A District Múnsif passed a decree in the terms of an award without giving notice of the filing of the award under s. 516 of the Code of Civil Procedure :

Held, that the District Múnsif acted with material irregularity within the meaning of s. 622 of the Code of Civil Procedure.

PETITION under s. 622 of the Code of Civil Procedure, praying the High Court to revise the decree of N. Saminada Ayyar, Principal District Múnsif of Trichinopoly in original suit, No. 116 of 1885.

The questions arising in the above suit were referred to arbitration. An award in favor of the plaintiff was returned by the arbitrators, and the District Múnsif passed a decree in the terms of the award, without giving notice to the parties that the award had been filed.

Defendants preferred this petition on the ground that the District Múnsif had acted with material irregularity in not giving notice as above.

V. K. Désikacháryár for petitioners.

Srinivása Ráu for respondent.

The arguments adduced on this petition appear, sufficiently for the purpose of this report, from the judgment of the Court (Muttusámi Ayyar and Parker, JJ.).

JUDGMENT.—We are of opinion that the decree made by the District Múnsif in this case must be set aside, and that he must be directed to hear the objections which the petitioners may urge against the award and then proceed to pass a fresh decree in accordance with law. By s. 516 of the Code of Civil Procedure, he was bound to give the petitioners notice of the filing of the

* Civil Revision Petition 94 of 1887.

award, and this he has failed to do. In our judgment this omission is a material irregularity. He should not have proceeded to pass a decree in conformity to the award without first hearing the petitioners' objections. The decree, as it stands, is one made without hearing the petitioners, who were entitled to be heard, and which it was not competent to the District Munsif to do. We direct him to restore the suit to the file, to give the petitioners ten days' time for filing the objections, and, after considering them, pass such orders as appear to him to be just in the circumstances of the case.

RANGANÁMI
v.
MUTTUSÁMI.

Costs will abide and follow the result.

APPELLATE CRIMINAL.

Before Mr. Justice Muttusámi Ayyar and Mr. Justice Brandt.

QUEEN-EMPRESS

against

NALLA.*

1887.
Sept. 13.

Penal Code, ss. 403, 429—Bull dedicated to an idol.

A bull dedicated to an idol and allowed to roam at large is not *fera bestia* and therefore *res nullius*, but, *primá facie*, the trustee of the temple, where the idol is worshipped, has the rights and liabilities attaching to its ownership.

This was a case taken up by the High Court under s. 435 of the Code of Criminal Procedure.

The facts of this case appear sufficiently, for the purpose of this report, from the judgment of the Court (Muttusámi Ayyar and Brandt, JJ.).

Counsel were not instructed.

JUDGMENT.—In this case two persons were charged before the Second-class Magistrate of Periyakulam, Madura district, with theft of, and mischief and criminal misappropriation in respect of, an animal described by that Magistrate as “the Kamatchi Amman temple bull.”

The Magistrate recorded no finding in respect of the theft, but convicted the accused on the other two counts under ss. 429 and

* Criminal Revision Case No. 178 of 1887.