

sufficient provision for the plaintiffs' maintenance in addition to the yield of the paramba." On 18th February 1889 the High Court, accepting this finding, decreed that the defendant No. 1 "as karnavan do pay to the appellants Rs. 95 with proportionate costs throughout."

CHEKKUTTI
v.
PARKY.

APPELLATE CIVIL.

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

KANARAN (DEFENDANT), APPELLANT,

v.

KUNJAN AND OTHERS (PLAINTIFFS), RESPONDENTS.*

1888.
Nov. 27.
1889.
Feb. 21.

Malabar Law—Karnavan, blindness a disqualification for the office of.

Suit to remove the defendant from the office of karnavan of a Malabar tarwad. The defendant had become blind after occupying the office of karnavan for some years:

Held, that the defendant was not a fit person to be the karnavan of a tarwad and should be removed from his office.

APPEAL against the decree of K. Kunjan Menon, Subordinate Judge of North Malabar, in appeal suit No. 604 of 1886, reversing the decree of A. Annasami Ayyar, District Munsif of Pynad, in original suit No. 471 of 1885.

Suit for the removal of the defendant from the post of karnavan of a Malabar tarwad.

The plaint set forth "that plaintiff and defendant are members of one tarwad, of which first defendant is the karnavan and first plaintiff his successor; that defendant became karnavan in 1044 after the death of Raroo Nair; that defendant became blind some twenty years ago; that first plaintiff has been managing the affairs of the tarwad since 1040;.... that defendant instituted original suits Nos. 106 and 107 of 1884 against tarwad tenants for recovery of certain properties and obtained decrees; that this act is detrimental to the interest of the tarwad; that defendant is not fit to hold the office of karnavan; that he lives in his wife's house; that he does not manage the tarwad affairs; that the said decrees were obtained to benefit his wife and children; that in the said

KANARAN
v.
KUNJAN.

suits defendant admitted that one Koonhi Kutti Kurup and one Shangaran Nambiar, who are his wife's relations, to be the members of his tarwad, and that he has done many acts injurious to the tarwad and tarwad tenants."

The District Munsif dismissed the suit, observing as to the alleged disqualifications of the defendant. "It is not contended by plaintiffs the defendant's blindness is congenital. It is also admitted by plaintiffs in the plaint the defendant became karnavan in 1044. The circumstance that the defendant became blind after he became karnavan, and also after he had spent about eight years in his karnavan stanam is not, I think, a sufficient reason to remove him from karnavan stanam. Congenital blindness, which would prevent a karnavan from attending to his duties, would possibly disqualify a member of a tarwad from succeeding to its headship. The defendant's blindness is not congenital. He became blind only after he had been karnavan for seven or eight years. From the way the defendant gave his deposition in this case it did not also appear to me that he is unfit to be the karnavan in the tarwad."

On appeal the Subordinate Judge passed a decree in favor of the plaintiff, recording findings as to the facts of the case as summarized in the following order of the High Court.

The defendant preferred this second appeal.

Sankaran Nayar for appellant.

Sankara Menon for respondents.

The arguments adduced on this second appeal appear sufficiently for the purpose of this report from the order of the Court (Collins, C.J., and Wilkinson, J.).

ORDER :—The Subordinate Judge has found that until recently plaintiff No. 1 carried on the management of family affairs, the defendant, the karnavan of the tarwad, having become totally blind in 1877. The Subordinate Judge has also found that the defendant has now put himself in the hands of two pretenders who set up a claim to be members of the tarwad, which claim is disputed by the plaintiff, and that acting under their advice he has done acts detrimental to the interest of the tarwad. Under these circumstances he considered that a case had been made out for defendant's removal from the karnavan stanam. On appeal it is argued that blindness is no bar to the defendant's holding the post of karnavan, and that if it be held to be so, plaintiff

No. 1 is not the senior anandravan. We are of opinion that a blind man is not a fit person to be the karnavan of a tarwad, and that to permit a blind man to continue to occupy that post under such circumstances as those disclosed in this case would inevitably tend to the ruin of the tarwad. We must therefore uphold the decree of the Subordinate Judge on this point.

Their Lordships then directed the Subordinate Judge to record a finding as to the truth of the allegation of plaintiff No. 1 that he was senior anandravan of the tarwad. But plaintiff No. 1 having died before the case came on for re-hearing, a decree was passed merely confirming the decree of the Subordinate Judge so far as it decreed the removal of the defendant from the post of karnavan.

KANARAN
v.
KUNJAN.

APPELLATE CIVIL.

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

RAMANADAN (DEFENDANT), APPELLANT,

v.

RAJAGOPALA AND OTHERS (PLAINTIFFS), RESPONDENTS.*

1889.
Jan. 7, 21.

Hindu law—Money decree against father—Attachment of ancestral estate.

In execution of a money decree ancestral property of the joint family of the judgment-debtor was attached. His sons sued to release their interest from attachment, alleging that the judgment debt had been incurred for immoral purposes, which was denied by the decree-holder. It was held by the lower Courts that nothing more than the father's share was liable to be attached, as the sons were not parties to the decree :

Held, that the nature of the debt should be determined, since the creditor's power to attach and sell depends on the father's power to sell, which again depends on the nature of the debt.

Mussamut Nanomi Babuasin v. Modun Mohun (L.R., 13 I.A., 1; s.c. I.L.R., 13 Cal., 21) discussed and followed.

SECOND APPEAL against the decree of T. Kanagasabai Mudaliar, Subordinate Judge of Tanjore, in appeal suit No. 41 of 1886, affirming the decree of S. Subbayya, District Munsif of Negapatam, in original suit No. 267 of 1884.

* Second Appeal No. 405 of 1887.