

APPELLATE CIVIL.

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

MAINE MOILAR AND OTHERS (PLAINTIFFS), APPELLANTS,

v.

ISLAM AMANATH AND OTHERS (DEFENDANTS), RESPONDENTS.*

1891.
Nov. 26.

Civil Procedure Code, s. 11—Civil suit—Religious usages of Muhammadans—Kutbah.

Certain Moplahs, described as "the *Mobtessor and Jamats*" of a mosque, sued certain other Muhammadans, described as "members of the Puslar caste," alleging that the custom was for the defendants to attend the plaintiffs' mosque on Friday at the reading of the kutbah, and that the defendants had recently built another mosque a short distance off, and had "for two months been attempting to read the kutbah there." It was further alleged in the plaint that such reading of the kutbah was "quite contrary to the Muhammadan religion" and that the defendants nevertheless proposed to have the kutbah read, "whereby the kutbah or adoration conducted in our mosque will, according to religion, be fruitless." The prayer of the plaint was for an injunction, restraining the defendants from reading the kutbah in their mosque :

Held, that the plaint disclosed no cause of action.

SECOND APPEAL against the decree of W. J. Tate, Acting District Judge of South Canara, in appeal suit No. 367 of 1889, affirming the decree of J. Lobo, District Munsif of Kasaragod, in original suit No. 235 of 1888.

The facts of the case are stated above sufficiently for the purposes of this report. The District Munsif dismissed the suit, and his decree was affirmed on appeal by the District Judge, who quoted, with reference to the reading of the kutbah, *Sadr Adalat Decisions*, No. 1 of 1814. The plaintiffs preferred this second appeal.

Ramachandra Rau Saheb for appellants.

Narayana Rau for respondents.

JUDGMENT.—We agree with the Courts below that the plaint discloses no cause of action. The plaintiffs wish to prevent the defendants, who are also Muhammadans, from performing a service called "kutbah" in their own private mosque on Friday. The

* Second Appeal No. 195 of 1891.

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ground on which they seek to obtain a permanent injunction is, not that, the performance causes annoyance or obstruction to them in the exercise of their own worship, but that it is contrary to the Muhammadan religion. It is not the province of the Courts to determine what is or what is not contrary to the Muhammadan religion, or to decide what religious service different sects of a community may hold in their own places of worship, provided the holding of such services cause no disturbance or illegal annoyance to the rest of the community, or does not infringe on the rights of their co-worshippers. It is argued that the Courts below should have decided whether the defendants were entitled to read the kutbah. In the case referred to by the District Judge, this very point was put by the Judges of the Sadr Adalat to the Muhammadan Law officers, who replied "the performance of prayers on Friday, in which the reading of the kutbah is included, is permitted alike in a mosque, or in a house, or in any other place which may be selected by common consent." The Puslars have, by common consent, selected the Moidin Palli mosque as the place in which they will have the kutbah read, and they were within their rights in so doing, it having been found that the vicinity to the plaintiffs' mosque is not such as to cause either annoyance or disturbance to the plaintiffs and their co-worshippers. This second appeal fails and is dismissed with costs.

APPELLATE CIVIL.

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

1891.
p. 15, 18.

EX PARTE RAGAVALOO CHETTI AND ANOTHER (PETITIONERS),
APPELLANTS,

IN RE RANGIAH CHETTI, RESPONDENT.*

Insolvency—11 § 12 Vic., Cap. 21, ss. 9, 92—Petitioning creditors' debt.—Joint debt.

A trader in Madras made a promissory note in the joint names of two merchants, trading together as members of an undivided Hindu family, on which Rs. 527 were

* Appeal No. 25 of 1891.