

great a lapse of time and under the circumstances which we find in this case, such necessity may rightly be presumed.

The result of our findings, then, is that the grants under exhibits I and II are valid and still in force, and that the plaintiff land is still held under those grants as modified by exhibit A.

On these findings the plaintiff's suit must fail, and it is unnecessary for us to discuss the pleas of limitation and want of notice raised by the appellants.

We reverse the decrees of the Courts below and dismiss the plaintiff's suit with costs throughout.

CHOCKA-
LINGAM
PILLAI
v.
MAYANDI
CHETTIAR.

APPELLATE CIVIL.

Before Mr. Justice Subramania Ayyar.

NARAYANASAMI (PETITIONER), APPELLANT,

1896.
March 30.

v.

KUPPUSAMI (COUNTER-PETITIONER), RESPONDENT.*

Succession Certificate Act—Act VII of 1889, s. 7—Joint certificate legal.

It is not illegal to grant a joint certificate to two persons who claim adversely to each other to be entitled to collect the debts due to the estate of the deceased under Succession Certificate Act, VII of 1889.

APPEAL against the order of T. M. Horsfall, District Judge of Tanjore, in civil miscellaneous petition No. 299 of 1895.

A petition was presented under the Succession Certificate Act (Act VII of 1889) by one Narayanasami Pillai, praying that a certificate might be granted to him to collect the debts due to one E. R. Sattaya Pillai deceased, the adoptive father of petitioner.

The petition was opposed by one Kuppusami, the alleged adopted son of one Nagalinga Pillai deceased, who was the undivided brother of E. R. Sattaya Pillai.

The District Judge ordered a joint certificate to issue in the name of both.

Petitioner appealed.

Sundara Ayyar for appellant.

Krishnasami Ayyar for respondent.

* Appeal against Order No. 175 of 1895.

NARAYANASAMI
v.
KUPPUSAMI.

JUDGMENT.—The first contention on behalf of the appellant was that the debt mentioned in the appellant's application for the certificate was the property of the appellant's father Sattaya Pillai. But, as Sattaya Pillai, the appellant, and the respondent were members of an undivided family, the presumption is that the debt was one due to the joint family, and there is nothing on the record to rebut this presumption.

The next contention was that the Judge should not have directed the grant of the certificate in the joint names of the appellant and the respondent. No doubt the cases in *Shitab Dei v. Debi Prasad*(1) and *Lonachand Gangaram Marwadi v. Uttamchand Gangaram Marwadi*(2) show that ordinarily certificates should not be granted to rival claimants jointly. But in the present case it is clear that the real object of the application for certificate was to raise questions as to the validity of the adoption of the respondent, a matter which was the subject of litigation for many years (*Narayanasami v. Kuppusami*(3)) and which the appellant's vakil states is now also the subject of a suit brought to set aside the adjudications made in favour of the respondent. In these circumstances I do not think it proper to interfere with the order of the District Judge.

I reject the appeal with costs.

APPELLATE CIVIL.

Before Mr. Justice Subramania Ayyar.

PERUMAL NAIK (DEFENDANT No. 2), PETITIONER,

v.

SAMINATHA PILLAI AND OTHERS (PLAINTIFFS Nos. 1, 2, 4 AND 5),
RESPONDENTS.*

*Suit for dismissal of members of devasthanam committee—Act XX of 1863, s. 16—
Reference to arbitration --Powers of arbitrators.*

Where a suit for dismissal of the members of a devasthanam committee and damages was referred under Act XX of 1863, section 16, to arbitrators who passed an award dismissing them as prayed and decreeing a portion of the damages claimed with interest :

(1) I.L.R., 16 All., 21. (2) I.L.R., 15 Bom., 634. (3) I.L.R., 11 Mad., 43.

* Civil Revision Petition No. 136 of 1895.