

BENSON
AND
MILLER, JJ.

SRINIVASA
AIYANGAR
v.
ARAYAR
SRINIVASA
AIYANGAR.

Desikar shrine, if that is found to be an adjunct of the main temple.

The Subordinate Judge is called upon to submit within three months from this date findings on the following points :—

(1) Whether the plaintiffs are the hereditary trustees entitled to the management of the Vedanta Desikar shrine ?

(2) Whether the said shrine is, or is not, one of the shrines attached to the Nachiyar and Vatapatra Sayanar temple ? and

(3) Whether the plaintiffs are disentitled to a declaration of their alleged right as trustee with reference to the proviso to section 42 of the Specific Relief Act ?

We direct that the trustees of the Nachiyar and Vatapatra Sayanar temple be made defendants in the case. The trial of the issues should take place after these newly added defendants have had notice of their inclusion as parties and after they have had time to appear and file written statements. If necessary, further issues may be framed on their written statements.

Fresh evidence may be received.

Seven days will be allowed for filing objections.

[In compliance with the above order, the Subordinate Judge, Tinnevely, submitted findings and their Lordships granted the plaintiffs the declaration and injunction prayed for.]

APPELLATE CIVIL.

*Before Sir Arnold White, Chief Justice, and Mr. Justice
Krishnaswami Ayyar.*

VEERABADRAN ACHARI AND ANOTHER (PLAINTIFFS),

APPELLANTS,

v.

SUPPLIAH ACHARI AND ANOTHER (DEFENDANTS), RESPONDENTS. *

*Hereditary Village Offices Act, Madras Act III of 1895, ss. 3, 21—Act applicable to offices mentioned in s. 3, cl. 4 only in villages other than proprietary estates.**

Clauses 3 and 4 of section 3 of Act III of 1895 must be read together.

The Act is applicable to offices mentioned in clause 4 of section 3 only in villages other than those in proprietary estates and section 21 of the Act does

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not oust the jurisdiction of Civil Courts in regard to such offices in proprietary estates. WHITE, C.J.,

SECOND APPEAL against the decree of Arthur F. Pinhey, District Judge of Madura, in Appeal Suit No. 317 of 1906, presented against the decree of S. Raghava Ayyangar, District Munsif of Sivaganga, in Original Suit No. 49 of 1905.

AND
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SWAMI
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—
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ACHARI.

The facts are thus stated in the judgment of the District Munsif.

“ This is an application to file an award under section 525, Civil Procedure Code. The submission to arbitration is admitted. But the award is disputed. The defendants have raised a question as to the competency of this Court to entertain the application. Issue I has therefore been raised.* The submission to arbitration is filed as Exhibit B. The award has been filed for purposes of reference as Exhibit A. The parties are carpenters. The dispute is as to the right to hold the hereditary office of carpenter and to receive the swatantrams and enjoy the manibam land attached to the office in 3 villages. The arbitrators have decided that the office belongs to the plaintiffs, that the defendants are mortgagees; and that the plaintiffs are entitled to recover possession of the emoluments including the manibam land. The plaintiffs pray that the award may be filed and that a decree for redemption may be passed in terms of the award as provided in section 526, Civil Procedure Code. The defendants contend that the Civil Court has no jurisdiction to take cognisance of suits relating to emoluments attached to service inams, and that this Court has no jurisdiction to pass a decree declaring the rights of parties with regard to such service inams.

I think that this Court has no jurisdiction over the subject matter of the award, and I think that an application under section 525 can be maintained only in a “ Court of the lowest grade having jurisdiction over the matter to which the award relates.” If this Court cannot try a claim with reference to the subject matter of the award in this case, then I think this application must be rejected.

I think that the matter in dispute being the emoluments attached to the office of village carpenter in three villages, of which two form part of the Sivaganga zamindary, and the third an inam

* Issue I was as follows : “ Whether this Court has no jurisdiction.”

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village enfranchised by the Inam Commissioner, the Civil Court has no jurisdiction under section 21 of the Madras Act III of 1895 to pass a decree "for the recovery of the emoluments" as it must if a decree has to be passed in terms of the award. Act III of 1895 applies to the hereditary office of a village carpenter in proprietary estates (*See* section 3, clauses 3 and 4). Of the three villages now in question, two villages form portion of the Sivaganga zamindary and one village is an inam village, the grant of which has been confirmed by the Government by enfranchisement. The villages therefore come under 'Proprietary Estates' defined in section 4 of Madras Act III of 1895. (*See* also section 4, clauses (a) and (d) of Madras Act II of 1894.)

I think that the Civil Court has no jurisdiction to pass a decree for possession or redemption in this case. In the case reported in Indian Law Reports, XXI Madras, page 134, it has been held that the office of village carpenter came under the purview of Madras Regulation VI of 1831, which has been repealed by Madras Act III of 1895. In the case reported in Indian Law Reports, XXVI Madras, page 490, Ambalam of a village was decided to have been included in section 3, clause 3 of Act III of 1895; and a suit for the recovery of Ambalam Manibam by a mortgagee was held to be barred by Act III of 1895.

There is no doubt that this Court has no jurisdiction over the matter dealt with by the award and that I cannot entertain the application or pass a decree even if the award be valid.

On the view I have taken, I have not thought it necessary to take evidence with regards to the other issues in the case.

The application registered as a suit is dismissed. The plaintiffs will pay the costs of the defendants and bear their own."

This judgment was confirmed on appeal.

Plaintiffs appealed to the High Court.

V. Narasimha Ayyangar for *V. N. Kuppu Rau* for appellants.

The respondents were not represented.

JUDGMENT.—This is a suit relating to certain lands alleged to form part of the emoluments belonging to the office of carpenter in certain villages. The lower Courts have held that the jurisdiction of the Civil Courts is barred under section 21 of Act III of 1895. Section 21 states that no Civil Courts shall have authority to take into consideration or decide, any claim to succeed to any office specified in section 3, etc.

The question is whether this is an office specified in section 3. Section 3 of the Act enumerates 4 clauses. Clause 3 speaks of other hereditary village offices in proprietary estates except the offices forming clause 4 below. Clause 4 no doubt deals with the hereditary offices of village artisans and village servants such as the village carpenter. But we must construe clause 3 and clause 4 together, and if, in clause 3, we find that in the case of hereditary village offices in proprietary estates the offices named in clause 4 are excepted we must construe clause 4 to mean that the Act applies to the hereditary offices of village artisans such as carpenter, etc., only in villages other than proprietary estates.

The plaintiffs claim to hold the office of village carpenter in three villages. As regards the offices in the zamindari villages it is clear from what we have said already that the jurisdiction of the Civil Courts is not ousted. As regards the third office it is stated to be in an inam village, a proprietary estate. The office of carpenter is not one of the offices to which either the Madras Village Cess Act of 1893 or the Madras Proprietary Estates Village Service Act of 1894 is applicable; and as it is not an office in a village other than proprietary estate, clause 4 of section 3 is inapplicable to the office in the inam village. *Pichuwayyan v. Vilakkudayan Asari*(1), and *Palamalai Padayachi v. Shanmuga Asari*(2), are decisions under Regulation 6 of 1831 and not under Act 3 of 1895. *Soundara Pandia Thevan v. Velathiappa Thevan*(3), relates to the office of Ambalam falling within clause 3 of section 3 of the Act and not within the exception in that clause. They have no application to this case. We regret there is no appearance for the respondents, but on the best consideration we have been able to give to the matter, we think the Courts below are wrong in declining to entertain the suit. We reverse the decrees of the Courts below and remand the case to the Court of First Instance. Costs will abide and follow the result.

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(1) (1898) I.L.R., 21 Mad., 138.

(2) (1894) I.L.R., 17 Mad., 302.

(3) (1903) I.L.R., 26 Mad., 490.