

BENSON  
AND  
SUNDARA  
AYYAR, JJ.

RAJA  
KUMARA  
VENKATA  
PERUMAL  
RAJA  
BAHADUR  
v.  
THATHA  
RAMASAMY  
CHETTY.

individual judgment-debtor, and one reason for the rule was probably that litigant parties should not have the right to interfere with the decrees of Courts, a reason which would probably indicate that the rule is applicable only to execution proceedings. A judgment-debtor is, in our opinion, entitled to waive the benefit of the rule. The compromise was a lawful compromise and was accepted by the Court as lawful and embodied in its decree. We therefore hold that the plaintiff in the present suit is estopped from contesting the validity of the mortgages. In the view we have taken on issue No. 4 it is unnecessary to consider the other questions in the case.

In the result the appeal is dismissed with costs.

### APPELLATE CIVIL.

*Before Mr. Justice Abdur Rahim and Mr. Justice Krishna-  
swami Ayyar.*

1910.  
September  
22, 23.  
October 13.

GOVINDASAMI PILLAI AND OTHERS (DEFENDANTS NOS. 2, 5, 9, 10,  
13, 16, 20, 21 AND 23), APPELLANTS, \*

v.

DAKSHINAMURTHI POOSARI AND OTHERS (PLAINTIFFS AND 24TH  
DEFENDANT), RESPONDENTS.<sup>†</sup>

*Religious foundation—Endowed property—Limitation Act XV of 1877, s.  
28, sched. II, Arts. 124, 144—Temple trusteeship and properties, bar  
of suit for former involves bar of suit for latter.*

The dismissal of a suit to recover the office of trustee for a temple whereby the right to the trusteeship is lost involves the loss of the right to recover a portion of the endowment.

SECOND APPEAL against the decree of F. D. P. Oldfield, District Judge of Tanjore, in Appeal Suit No. 334 of 1908, presented against the decree of T. T. Rangachariar, Subordinate Judge of Kumbakonam, in Original Suit No. 54 of 1907.

The Advocate-General (Hon. Mr. P. S. Sivaswami Ayyar) for appellants.

\* Second Appeal No. 630 of 1909.

*T. R. Venkatarama Sastri for K. Srinivasa Ayyangar for first to fifth respondents.*

**JUDGMENT.**—The plaintiffs sued for possession of the pujah and stanikam rights in the temples Nos. 1 to 3 of the idols themselves, and of certain immovable properties specified as items Nos. 19 to 27 in the schedule attached to the plaint. The Subordinate Judge dismissed the entire suit as barred by limitation. It is agreed that the pujah and stanikam rights referred to include the trusteeship of the temples. The plaintiffs preferred an appeal to the District Court and limited the relief claimed in the appeal to the possession of items Nos. 19 to 24 of the plaint schedule with mesne profits. This they did not merely by valuing items Nos. 18 to 24 only for purposes of Court fee, but also by adding a special prayer limiting the relief claimed in appeal as above mentioned. The District Judge has passed a decree in the plaintiff's favour as regards these items. It is argued in second appeal that this decree is bad. The contention is that items Nos. 18 to 24 being properties attached to the temples and the idols consecrated therein, the plaintiffs, whose suit for the idols and the trusteeship of the temples have been dismissed, are not entitled to claim possession of the immoveable properties whose income has only to be appropriated for the purposes of the temples. We think this view is correct. It is supported by the decision in *Doorga Proshad Dass v. Sheo Proshad Pandah* (1). It is well established that the consecrated idol of a temple is a juridical person for certain purposes and that the trustee of the temple is in the position of a manager for an infant heir with this difference that the infancy is perpetual. The right of the trustee is to see that the property of the juridical person in perpetual infancy is not divorced from application to the infant's uses. If the plaintiffs are permitted to recover the properties alone they will be enabled to separate the properties from the legitimate purposes for which they are to be applied, for the dismissal of the suit for the possession of the trusteeship and of the idols by the Subordinate Judge stands and the plaintiffs' right to the trusteeship is consequently at an end. In *Gnana Sambhanda Pandara Sannadhi v. Velu Pandaram* (2), the Privy Council observed at page 279, "their Lordships are of

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(1) (1880) 7 C.L.R., 278.

(2) (1900) LL.R., 23 Mad., 271.

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—  
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opinion that there is no distinction between the office (that of trustee) and the property of the endowment. The one is attached to the other." They were inclined to hold that, if the right to the office was barred, the right to possession of the endowments attached to it was lost with it. In *Kidambi Ragavachariar v. Tirumalai Asari Nallur Ragavachariar*(1), this Court held "that the right to land which was the endowment of a temple was only secondary to, and dependent upon, the right to the office (of trustee) and that, if the right to recover the office was barred, the right to recover the land attached to it was equally barred." The same rule was laid down in *Tammirazu Ramazogi v. Pantina Narsiah* (2) Applying this principle to the present case we may safely hold that if the right to recover the office of trustee is lost by the dismissal of the suit by the Subordinate Judge the right to recover a portion of the endowments must fall to the ground along with the trusteeship. We must reverse the decree of the District Court and restore that of the Subordinate Judge with costs here and in the lower Appellate Court.

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(1) (1903) I.L.R., 25 Mad., 113.

(2) (1871) 6 M.H.C.R., 301.