

APPELLATE CIVIL.

*Before Mr. Justice Benson.*1902.
March 27.

SATURLURI SEETARAMANUJA CHARYULU, PETITIONER,

v.

NANDURI SEETAPATI AND ANOTHER, COUNTER-
PETITIONERS.**Religious Endowments Act—XX of 1863, s. 18—Leave to institute suit—Necessity for showing exercise of control by Board of Revenue.*

For a Court to have jurisdiction to grant sanction, under section 18 of the Religious Endowments Act, to institute a suit, it is not necessary for it to be shown that the Board of Revenue has actually exercised control over the temple in question. *Muthu v. Gangathara*, (I.L.R., 17 Mad., 95), explained.

PETITION, under section 18 of Act XX of 1863, for sanction to institute a suit. The District Judge passed the following order:—
“The application is opposed on the ground among others that the temple was not under the management of the Revenue Board and transferred to the Darmakartas, and that therefore sanction should not be granted. *Muthu v. Gangathara*(1) is relied on. (1) On the other side, *Sivayya v. Rami Reddy*(2) is quoted, but it did not overrule the previous decision. The petitioner states that counter-petitioners are hereditary trustees of the Venugopalasawmi temple, to which certain land is an endowment. To entitle the petitioners to sanction, it should appear that Madras Regulation VII of 1817 was applicable to the temple. As to whether Regulation VII of 1817 applied to the Venugopalasawmi temple, an extract from the Inam fair register (exhibit A) shows that there was an Inam belonging to the temple. It does not show that the temple was either under the direct management of Board of Revenue or that the Darmakartas were under its management. It is not shown that petitioner is entitled to the sanction prayed for.” He dismissed the application. Against that order of dismissal, the petitioner preferred this Civil Revision Petition.

* Civil Revision Petition No. 347 of 1901, presented under section 622 of the Code of Civil Procedure, praying the High Court to revise the order of W. C. Holmes, District Judge of Kistna, dated 19th April 1901, passed on Civil Miscellaneous Petition No. 610 of 1900.

(1) I.L.R., 17 Mad., 95.

(2) I.L.R., 22 Mad., 223.

V. Ramesam for petitioner.

V. Krishnaswami Ayyar for respondents.

JUDGMENT.—The learned District Judge has held that he had no jurisdiction to grant sanction under section 18 of Act XX of 1863, because it is not shown that the temple referred to in the petition before him had been under the management of the Board of Revenue or that its Darmakartas had been under its management, and he has referred to the case of *Muthu v. Ganguthara*(1). It may, I think, be doubted whether this Court intended to hold in that case that section 14 of Act XX of 1863 applied only to cases to which Regulation VII of 1817 was applicable. If it did do so, the decision was in conflict with the express ruling in the case of *Hakurudin Sahib v. Acken Sahib*(2). It certainly did not hold, as the District Judge holds, that it is necessary to show that the Board of Revenue had actually exercised control. That such actual control is not a condition necessary to make Act XX of 1863 applicable is clear also from the other case to which the District Judge refers (*viz.*, that reported in *Sizuyya v. Ramji Reddy*(3)). I think that the District Judge has misunderstood the scope of sections 14 and 18 of Act XX of 1863, and has in consequence failed to exercise a jurisdiction vested in him by law by refusing to deal with the petition on its merits. I set aside his order and direct him to restore the petition to his file and dispose of it according to law. Costs in this Court will abide and follow the event.

SATUBURI
SEETARAMA-
NUJA CHAR-
YULU
T.
NANDURI
SEETAPATI.

(1) I.L.R., 17 Mad., 95.

(2) I.L.R., 2 Mad., 197.

(3) I.L.R., 22 Mad., 223.