

SEERAMULU to herself an estate for life in her husband's property or any  
 v.  
 KRISTAMMA. considerable portion thereof exceeding what may be a reasonable  
 provision for her maintenance, or any conveyancing device intended  
 to secure to her directly or indirectly a beneficial interest for life  
 in such property will be legally inefficacious against the rights of  
 the adopted son.

The second appeal fails and the decree appealed against is affirmed except in respect of costs, but only on the ground that the suit as now brought is premature.

Under the circumstances of the case, it is ordered that each party do bear his or their own costs throughout.

DAVIES, J.—I have nothing to add to my learned colleague's judgment, with which I entirely agree.

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## APPELLATE CIVIL.

*Before Mr. Justice Bhashyam Ayyangar.*

ABDULLA (PETITIONER), DEFENDANT,

v.

MAMMOD (RESPONDENT), PLAINTIFF.\*

*Contract—Transfer of license to collect ferry charges—Validity as between renter and transferee where transfer is contrary to terms of license.*

Where, by the terms of a lease of a ferry, the renter should not transfer or sub-rent the ferry, but such a transfer or sub-lease is not prohibited by Statute, or by a Rule framed under a Statute, a transfer of it will be valid as between the renter and his transferee, though it may be invalid as against Government.

SUIT to recover the balance due under an agreement by which plaintiff assigned his license to collect ferry charges to defendant. Defendant denied the assignment and his liability under the alleged agreement. The Subordinate Judge (sitting on the Small Cause side), found in plaintiff's favour on the agreement, and held that it was valid in law, though the receipts had been made out in plaintiff's favour, because the Revenue authorities would regard an assignment as invalid. He decreed the amount claimed.

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\* Civil Revision Petition No. 361 of 1901, presented under section 25 of Act IX of 1887, praying the High Court to revise the decree of K. Krishna Rao, Subordinate Judge of South Malabar at Calicut, dated 29th day of July 1901, in Small Cause Suit No. 160 of 1901.

Defendant preferred this civil revision petition on the grounds that the suit was not maintainable, and that the assignment of the ferry was void in law as such assignments are prohibited by Government. He relied on the principle laid down in *Marudamuthu Pillai v. Rangasami Mooppan*(1).

*M. Bhaskara Menon* for petitioner.

*V. Ryrri Nambiar* for respondent.

JUDGMENT.—One of the terms of the lease of ferries in the District of Malabar seems to be that the renter shall not transfer or sub-rent the ferry without the previous sanction of the Collector. But it does not appear that any rule was framed under section 16 of the Canals and Public Ferries Act (II of 1890 (Madras)), prohibiting such transfer or sub-lease. Though the transfer may be invalid against Government, it will be valid as between the renter and his assignee. The cases of *Bhikanbhai v. Hiralal*(2) and *Gauri Shankar v. Mumtaz Ali Khan*(3) support this position. The decision of this Court (*Marudamuthu Pillai v. Rangasami Mooppan*(1)) under the *Alkari* Act is inapplicable to the present case.

The petition is therefore dismissed with costs.

## APPELLATE CIVIL.

*Before Mr. Justice Bashyam Ayyangar and Mr. Justice Moore.*

PARAMESHRI AND ANOTHER (DEFENDANTS), APPELLANTS,

1902.  
March 10, 25.

v.

VITCAPPA SHANBAGA AND ANOTHER (PLAINTIFFS), RESPONDENTS.\*

*Landlord and tenant—Permanent lease with covenant against alienation—Subsequent alienations—Suit to evict alienees—Maintainability—Transfer of Property Act—IV of 1882, ss. 10, 111 (g)—Applicability of principles of the Act to lease executed prior to its enactment.*

In 1862, V leased certain land on permanent lease to Y, the instrument reciting that Y had no right to alienate the property. In 1890, Y sold the

(1) I.L.R., 24 Mad., 401.

(2) I.L.R., 24 Bom., 622.

(3) I.L.R., 2 All., 411.

\* Second Appeal No. 841 of 1900, presented against the decree of M. Achutan Nair, Subordinate Judge of South Canara, in Appeal Suit No. 39 of 1899, presented against the decree of V. C. Mascarenhas, District Munsif of Karkal, in Original Suit No. 185 of 1898.