what steps should be taken to enforce the demand against it.

We observe from the B Diary that attachment of the immovable property has been ordered. It may be objectionable to effect sales of any portion of this property to meet these demands if they can be satisfied in any other way, as by the appointment of a receiver. We commend this point to the consideration of the Court below in making its final orders.

The costs in this Court will abide and follow the result.

A.S.V.

APPELLATE CIVIL.

Before Sir Owen Beasley, Kt., *Chief Justice, and Mr. Justice King.*

HIS HOLINESS SRI LA SRI VYTHILINGA PANDARA SANNADHI, ADHINAKARTHAR, THIRUVADUTHURAI MUTT (SECOND DEFENDANT), PETITIONER,

1934, October 30.

v.

SANKARALINGA THAMBIRAN AND ANOTHER (PLAINTIFFS 2 AND 5), RESPONDENTS.*

Code of Civil Procedure (Act V of 1908), sec. 115—Issues in suit —Decision of one of several—Revision against—Competency of—Interference in—Conditions—Practice—Appeal and revision—Memoranda of—Contents of.

Where one of the issues in a suit was whether the suit was maintainable under section 92 of the Code of Civil Procedure and the Court below decided that it was,

* Civil Revision Petition No. 924 of 1933.

VYTHILINGA PANDARA SANNADHI v. SANKARALINGA THAMBIRAN.

held that a revision petition from its decision was competent but that the High Court ought not to interfere in revision unless the point could be shortly and conveniently disposed of by way of a revision petition.

Balakrishna Odayar v. *Jagannada Chariar*, (1924) 48 M.L.J. 534, and *Ranganayaki Bai Ammal* v. *Shivarama Dubay*, (1929) 58 M.L.J. 104, relied upon.

Grounds of revision petition or memorandum of appeal to the High Court should only contain very briefly and concisely the grounds upon which it is contended the lower Court's decision is wrong. To set out legal arguments therein is an entire misconception of what is right and proper, and is contrary to the provisions of Order XLI, rule 1(2), of the Code of Civil Procedure.

PETITION under section 115 of Act V of 1908 and section 107 of the Government of India Act, praying the High Court to revise the order of the Court of the Subordinate Judge (Additional) of Tanjore, dated 22nd December 1932 and passed in Original Suit No. 50 of 1931 (Original Suit No. 71 of 1918 on the file of the Court of the Subordinate Judge of Kumbakonam).

K. S. Krishnaswami Ayyangar, *V. N. Venkatavaradachariar* and *R. Gopalachari* for petitioner.

T. R. Venkatarama Sastri for *P. N. Marthandam Pillai* for the first respondent.

M. Balasubramania Mudaliar and *T. M. Ramaswami Ayyar* for the second respondent.

Cur. adv. vult.

The JUDGMENT of the Court was delivered by

BEASLEY C.J.

BEASLEY C.J.—This civil revision petition is presented against a decision of the Additional Subordinate Judge of Tanjore upon issue No. 1 in the suit which was :

"Is the Thiruvaduthurai Mutt a public, charitable or religious institution within the meaning of section 92, Civil Procedure Code, and is the suit sustainable under the said section ?"

The Additional Subordinate Judge gave his decision upon this issue on the 22nd December 1932, finding that the mutt was a public and charitable religious institution within the meaning of section 92, Civil Procedure Code, and that the suit was therefore sustainable under that section. The objection taken to this decision is that the Judge has failed to distinguish between an endowment for the general support of the mutt and a specific endowment for a specific purpose and that the former purpose is not one which makes the mutt a charitable or religious institution within the meaning of section 92, Civil Procedure Code. A preliminary objection to the maintainability of this revision petition was taken by the respondents, it being contended that an appeal from the decree in the suit lies to the High Court, that the question before us is one which has to be decided in such an appeal and that a decision upon one of several issues in the suit is not a decision upon the case, and therefore no civil revision petition can be entertained. In support of this contention a decision of a Full Bench of the Allahabad High Court in *Buddhu Lal* v. *Mewa Ram*(1) was relied upon. This decision certainly supports the preliminary objection but it was not the unanimous decision of the Full Bench of five because two of its number dissented from the majority view and held that the High Court had jurisdiction to entertain an application in revision, WALSH J. one of the dissenting Judges stating that in the Allahabad High Court there were pronounced and irreconcilable differences of principle in the practice followed by different Judges. Apart

(1) (1921) I.L.R. 43 All. 564 (F.B.).

VYTHILINGA PANDARA SANNADHI v. SANKARALINGA THAMBIRAN.

BEASLEY C.J.

from the fact that in this case the decision was not unanimous, there are decisions of this High Court taking a contrary view to that taken by the majority of the Full Bench in that case ; and we see no reason why we should therefore seek authority from elsewhere. One of the Madras decisions is *Balakrishna Odayar* v. *Jagannada Chariar*(1), a decision of WALLACE and MADHAVAN NAIR JJ. In that case the Court had to consider issue No. 1 in the suit which, as in the present case, raised the question of the maintainability of the suit under section 92 of the Civil Procedure Code. The Court decided that it was a fit matter for revision, holding that, if the suit is not maintainable at all, interference by the High Court in revision would prevent further waste of time and money ; and it was on that account that the revision petition was entertained, though it was stated that interference in revision with findings in a pending suit is not a matter which the High Court will view with favour and it will require a very strong proof of want of jurisdiction or irregular exercise of jurisdiction to warrant interference. Another case is the decision of CURGENVEN J. in *Ranganayaki Bai Ammal* v. *Shivarama Dubay*(2) to the same effect and in the course of his judgment reference is made to other reported cases of this High Court, CURGENVEN J. stating :

> "I think it must be said that there is now a course of decisions in favour of interference sufficiently marked to render it undesirable that a single Judge should take the opposite view."

---

(1) (1924) 48 M.L.J. 534.

(2) (1929 58 M.L.J. 104.

In our opinion, it is clear that it has been the practice of this High Court to exercise its revisional powers in such cases and therefore the preliminary objection must be overruled. But it by no means follows that, because the High Court has the power to interfere in revision in such cases, it must necessarily do so. On the contrary, we are definitely of the view that the High Court ought not to do so unless the particular point can be shortly and conveniently disposed of by way of a civil revision petition ; and it seems to us that this is certainly not such a case. We may usefully refer to two decisions of the Privy Council, viz., *Mahomed Solaiman* v. *Birendra Chandra Singh*(1) and *Jagannath Rao Dani* v. *Rambharosa*(2), where it is stated that it is the duty of the Courts in India to pronounce upon all important points in an appealable case. It is conceded that some of the endowments in question were for a specific purpose. Hence it follows that, to the extent of those endowments at least, the lower Court must frame a scheme. The petitioner, however, is unable to tell us the extent of those endowments and the position is that he is unable to urge anything more than an objection to the framing of a scheme with regard to the endowments for the general purposes of the mutt and is unable to say whether these endowments form the larger part of the endowments of the mutt or what the extent of them is. Both sides are here with a large mass of authorities upon this question and it may be necessary also to examine some of the evidence given in the case, and in this connection we must observe that a large number of witnesses

(1) (1922) I.L.R. 50 Calc. 243 (P.C.). (2) (1932) L.R. 60 I.A. 49.

VYTHILINGA PANDARA SANNADHI v. SANKARALINGA THAMBIRAN.

BEASLEY C.J.

were called in the lower Court and a mass of documents considered and the Additional Subordinate Judge has dealt with this matter in a judgment which consists of 114 paragraphs covering 114 pages of the printed record. Whilst giving all credit to the learned Judge for his great care, it is, in our opinion, a judgment of quite unnecessary length. Not to be outdone in prolixity, the petitioner here has presented a memorandum of civil revision petition which consists of 51 paragraphs covering 11 pages of the printed record. Most of these paragraphs cover the same objection ; and many of them quote reported decisions of Benches and Full Benches of this High Court and decisions of the Privy Council and contain legal arguments upon them and contentions that the trial Judge has erroneously misapplied them and as to how he has misapplied them and has failed to note distinguishing features in them. We feel bound to register our strong protest against such a gross misuse of grounds of petition or memorandum of appeal to the High Court. These should only contain very briefly and concisely the grounds upon which it is contended the Court's decision is wrong. To state the same ground or grounds again in different language, besides being a waste of time, can serve no useful purpose. It should be unnecessary to add further that, in the grounds of revision and appeals to the High Court, to set out legal arguments is an entire misconception of what is right and proper, and is contrary to the provisions of Order XLI, rule 1 (2), of the Civil Procedure Code. We decline to deal with this

matter by way of revision ; and this petition must accordingly be dismissed with costs.

We cannot leave this case without saying that it is a glaring example of protracted litigation. The suit was filed in 1918 and in 1932, fourteen years afterwards, the issue as to its maintainability was first decided. This seems to us to be nothing short of a scandal. The suit must now be disposed of without further delay. Issues 2 and 3 have already been decided, and the other issues as yet undecided must be pronounced upon as soon as possible. In order to save any delay should there be an appeal against the decree upon this point, the Subordinate Judge is directed to frame a scheme for the general endowments, and another for those for specific purposes.

A.S.V.

APPELLATE CIVIL.

Before Mr. Justice Madhavan Nair and Mr. Justice Cornish.

MOWLAVI HAJI MAHOMED ABDUL BAQI (SECOND RESPONDENT), APPELLANT,

1934, October 26.

v.

KANURU SUNDARARAMAYYA AND ANOTHER (PETITIONER AND FIRST RESPONDENT), RESPONDENTS.*

Code of Civil Procedure (Act V of 1908), sec. 145—Applicability of—Contract of suretyship imposing personal liability for performance of a decree.

Section 145 of the Code of Civil Procedure is not restricted to suretyships undertaken through the Court. The language

* Appeal against Order No. 82 of 1933.