

page 549. It seems to us therefore that the argument based on section 17 of the Limitation Act is not a tenable one. SIVASANKARA
AMAHAVATHI.

We are therefore of the opinion that the suit by the plaintiff was competent. There is no other point of substance in the appeal and none has been pressed before us in the view we have taken of the competency of the suit. In the result, the appeal fails and is dismissed with costs.

A.S.V.

APPELLATE CRIMINAL.

*Before the Hon'ble Mr. A. H. L. Leach, Chief Justice, and
Mr. Justice Madhavan Nair.*

RAJA VELUGOTI SARVAGNA KUMARA KRISHNA
YACHENDRA BAHADUR VARU, OF VENKATAGIRI,
PETITIONER,

1937,
October 12.

v.

N. V. RAMA NAIDU AND ANOTHER, RESPONDENTS.*

*Contempt of Court—Suit for injunction, filed by petitioner—
Pending—Respondents published an article in a weekly
paper—Case of defendants stated and inferred to be
true—Petitioner accused of several wrongful acts against
defendants—Author of the article and the editor of the
paper—Liability of.*

During the pendency of a suit filed by the petitioner, the holder of an impartible estate, for an injunction restraining some of the inhabitants of his estate from entering his forests and cutting firewood therein, an article was published in a weekly paper which stated the defendants' case and inferred that it was true and accused the petitioner of having ruined the defendants, of having concocted false criminal cases against

* Criminal Miscellaneous Petition No. 1084 of 1937.

RAJA OF
VENKATAGIRI
v.
RAMA NAIDU.

them and of using his influence maliciously and to the detriment of the defendants. In proceedings for contempt of Court against the respondents, the author of the article and the editor of the paper in which the article was published,

held: (i) The article constituted gross contempt of Court notwithstanding that it closed with an appeal for assistance for the defendants.

Anything which tends to excite prejudice against the parties, or their litigation, while it is pending, constitutes contempt of Court.

(ii) The belief of the respondents that the article was not of a nature which would prejudice the fair trial of the suit did not excuse the offence.

(iii) The fact that the trial Judge would not be affected by the article had no bearing on the matter.

PETITION praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to punish the respondents therein for contempt of Court for having published in the Telugu Weekly paper called "Zamin Ryot" in its issue of 27th August 1937 an article containing certain statements, a true translation of which was annexed to the petition as Exhibit "A", and a similar article in the same weekly in its issue dated 10th September 1937 relating to Original Suit No. 308 of 1937 on the file of the Court of the District Munsif of Nellore.

M. Patanjali Sastri for *P. S. Raghavarama Sastri* for petitioner.

B. Somayya for respondents.

The ORDER of the Court was delivered by
LEACH C.J. LEACH C. J.—This is an application by the Raja of Venkatagiri for an order against the respondents for contempt of Court. The petitioner is the plaintiff in a suit in the District Munsif's Court, Nellore, for an injunction restraining

forty inhabitants of Venkatagiri from entering the petitioner's forests and cutting firewood therein. The defendants claim that they have the right to cut firewood there and to sell it. They base this right on grant, custom and prescription. The suit was filed in June 1937 and on 27th of August the following article appeared in the "Zamin Ryot" which is published in Nellore :

RAJA OF
VENKATAGIRI
v.
RAMA NAIDU.
LEACH C.J.

"HELP THE ARAVA-MALAS OF VENKATAGIRI.

Means of livelihood enjoyed for generations deprived of by the estate.

Appeal by Kamatam Shunmugam, M.L.A.

There are about 500 families of Harijans in Venkatagiri. During the time of Chevi Reddi, the original ancestor of the Rajas of Venkatagiri Estate, one Yachadu, the original ancestor of the Malas, sacrificed his life as offering at the bidding of Bhairavamurti (Deity) in order to provide the Estate with money. In pursuance of the (last) favour asked for by Yachadu prior to the sacrifice, whenever marriages take place in the house of the Estate (people) even to this day, they first perform the marriage of one among the Malas, take the holy rice showered on the (bridal) couple and thereafter perform their own marriages. Out of such Malas about 300 families have been serving the Estate for the past about twenty-nine generations, as grooms, keepers of the elephants and as servants getting fodder to the said animals. The salaries paid to them are not even enough to satisfy their barest necessities. Consequently, they have been, in addition to their salaries, eking out their livelihood by bringing and selling dry firewood from the forests situate in Venkatagiri. None of the late rulers of the Estate ever raised any objection in regard to this. Since about one year, the Estate has been selling firewood by opening a firewood depot and has (thereby) not only ruined the occupation of these people, but also caused an injunction order to be issued against them. Now the estate has prepared some (kind of) statements and while forcing them to sign or affix their marks therein, dismissed from

RAJA OF
VENKATAGIRI
v.
RAMA NAIDU.
LEACH C.J.

service forty persons who did not do so. When they go to the small villages nearby to gather green and dry grass with a view to sell the same and earn a living, they are setting up the ryots to obstruct these people in the respective villages. Every now and then criminal cases are being concocted and filed and these people are sent to prisons. The Estate, besides not only ruining their occupation in this manner, has also been putting them to considerable trouble and loss by maliciously using their entire influence. Civil cases are going on between the two parties. Certain kind-hearted Advocates are conducting the proceedings on behalf of the Malas free (of cost). Until the cases are disposed of, the said 300 families have to suffer for their food and raiment. I, therefore, pray that countrymen, who have the welfare of the poor at heart, will naturally render assistance to these people, either in cash or paddy or any other article necessary for their life.

Kind-hearted donors are requested to send in their contributions to the following persons:—

- (1) Arava Surayya, Kapadipalem, Nellore.
- (2) Arava Padanarasayya, Yeguvapalem, Venkatagiri Town."

The author of the article is the second respondent who is a member of the Madras Legislative Assembly. The first respondent is the editor of the paper. The petitioner complains that the article constitutes gross contempt of Court, and we consider this to be the case. The article states the defendants' case and infers that it is true. It then accuses the petitioner of having ruined the defendants and of having concocted false criminal cases against them. It further accuses the petitioner of using his influence maliciously and to the detriment of the defendants. The fact that the article closes with an appeal for assistance for the defendants does not help the respondents. This appeal could have been made without the accusations which preceded it.

RAJA OF
VENKATAGIRI
v.
RAMA NAIDU.
LEACH C.J.

The law is quite clear and is stated thus at page 91 of the third edition of Oswald's Contempt of Court :

" All publications which offend against the dignity of the Court, or are calculated to prejudice the course of justice, will constitute contempts. Offences of this nature are of three kinds—namely, those which (1) scandalise the Court; or (2) abuse the parties concerned in causes there; or (3) prejudice mankind against persons before the cause is heard. Under the first head fall libels on the integrity of the Court, its Judges, officers, or proceedings; under the second and third heads anything which tends to excite prejudice against the parties, or their litigation, while it is pending. For example, attacks on or abuse of a party, his witnesses or solicitor, constitute contempts, though a mere libel on a party, not amounting to an interference with the course of justice, does not, the party being left to his remedy by action."

In *The St. James's Evening Post Case*(1), Lord HARDWICKE observed :

" Nothing is more incumbent upon Courts of justice, than to preserve their proceedings from being misrepresented; nor is there anything of more pernicious consequence, than to prejudice the minds of the public against persons concerned as parties in causes, before the cause is finally heard."

And he added :

" There cannot be anything of greater consequence, than to keep the streams of justice clear and pure, that parties may proceed with safety both to themselves and their characters."

In *re The William Thomas Shipping Co.*(2), MAUGHAM J. observed :

" I think that to publish injurious misrepresentations directed against a party to the action, especially when they are holding up that party to hatred or contempt, is liable to affect the course of justice, because it may, in the case of a plaintiff, cause him to discontinue the action from fear of public dislike, or it may cause the defendant to come to a compromise which he otherwise would not come to, for a like reason."

(1) (1742) 2 Atk. 469; 26 E.R. 683. (2) [1930] 2 Ch. 368, 376.

RAJA OF
VENKATAGIRI
v.
RAMA NAIDU.
LEACH C.J.

The fact that the trial Judge would not be affected by the article has no bearing on the matter, as was pointed out by this Court in the case of *Sathappa Chettiar v. Ramachandara Naidu*(1).

The defence set out in the affidavit is that the respondents did not regard the article as being of a nature which would prejudice the fair trial of the suit and they offered to express their regret if the Court were of a contrary opinion. The belief of the respondents does not excuse the offence. Lord LANGDALE M.R. in *Little v. Thomson*(2) said:

“Whatever might have been his belief at the time he published these articles, that belief will not protect him from the consequences, if his publication has been of such a nature as to disturb the free course of justice. The effect of such publications would seem to be not only to deter persons from coming forward to give evidence on one side, but to induce witnesses to give evidence on the other side alone. What I am to consider is, whether these papers are or are not calculated to disturb the free course of justice.”

At a later stage in the case Lord LANGDALE observed:

“I am surprised that a gentleman of education and science should think that it was serving the cause of truth and justice, or likely to benefit the gardeners, whose interest he professes to advocate, to publish articles of this description pending the progress of a cause.”

The respondents have appeared before us and the Court having informed them that it considers that the article does constitute grave contempt, they have expressed their regret for their action. In these circumstances we do not consider it necessary to take any action in the matter beyond ordering the respondents to pay the costs of the petitioner, which we fix at Rs. 100.

V V.C.

(1) (1931) I.L.R. 55 Mad. 262.

(2) (1839) 2 Beav. 129; 48 E.R. 1129.