

APPELLATE JURISDICTION. (a)

*Special Appeal No. 101 of 1862.*KUMINI AMA.....*Appellant.*PAKRAM KOLUSHERI.....*Respondent.*

An otti, like a kánam, mortgage cannot be redeemed before the lapse of twelve years from its date.

An otti differs from a kánam mortgage, first, in respect of the right of pre-emption which the otti holder possesses ; secondly, in being for so large a sum that, practically, the janmi's right is merely to receive a pepper-corn rent.

THIS was a special appeal against the decree of H. D. Cook, the Civil Judge of Calicut, in Appeal Suit No. 551 of 1861, affirming the decree of the District Munsif of Kacherri, zila' Calicut, in Original Suit No. 483 of 1859. The suit was instituted for the recovery of a paramba, the janma property of the second and third plaintiffs, who, in December 1857, assigned it on otti to the first defendant for rupees 200 and paramkadam of rupees 87-8-0 in the name of the second defendant. The first plaintiff alleged that the second and third plaintiffs asked the first defendant to buy the janma right to a moiety of the paramba and to restore the other half ; that the first defendant refused and that the second and third plaintiffs thereupon sold the janma right to the first plaintiff, who now sued to redeem on payment of the otti money and paramkadam. The first and second defendants denied that the janma right had been offered for sale to the former and contended that the sale to the first plaintiff was invalid. The Civil Judge concurred with the District Munsif in disbelieving that the option to purchase had been given to the otti-holder, and, on the authority of *Special Appeal No. 93 of 1859(b)*, affirmed the Munsif's decree dismissing the suit.

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The first plaintiff now specially appealed on the ground that even if his title were bad as against the defendants, the second and third plaintiffs had a right to redeem the land.

Mayne for the appellant, the first plaintiff.

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(b) M. S. D. 1859, p. 159.

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Tirumalachariyar for the respondent, the second defendant, contended that the suit was premature.

PER CURIAM.—We think that an otti like a kánam mortgage cannot be redeemed before the lapse of twelve years from the date of its execution. An otti, in fact only differs from a kánam in two respects. First, in the right of pre-emption which the otti-holder possesses in case the janmi wishes to sell the premises, and, secondly in the amount secured, which is generally so large as practically to absorb in the payment of the interest, the rent that would otherwise have been paid to the janmi, who is thus entitled to a mere pepper-corn rent.

Appeal dismissed.

ORIGINAL JURISDICTION. (a)

Special Appeal No. 279 of 1862.

UKANDA VARRIYÁR.....*Appellant.*

RÁMEN NAMBU DIRI.....*Respondent.*

When the uralans of a devasvam were four tarawáds : *Held* that a sale of the uráyáma right by one tarawád without the consent of the others was altogether invalid and that the vendee could not redeem a kánam mortgage of the devasvam land though the mortgagor was káranavan of the tarawád which assumed to sell the uráyáma right.

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THIS was a special appeal from the decree of H. D. Cook, the Civil Judge of Calicut, in Appeal Suit Nos. 116 and 117 of 1860. The plaintiff sued to redeem lands of the Karuvambalom devasvam, which lands had been demised on kánam by one Shangara Nambudiri deceased, the Káranavan of the third and fourth defendants to the káranavan of the first and second defendant. The third and fourth defendant's tarawád, subsequently sold the uráyáma right to the plaintiff. It appeared that there were four uralans of the Devasvam, the tarawád of the third and fourth defendants, and the tarawáds of the fifth, sixth and seventh defendants respectively, and the question was whether the plaintiff could redeem the kánam. The District Munsif held that he could, and decreed accordingly; but on appeal the Civil Judge recorded his decree, observing "There are in this case two points to be considered:—First

(a) Present : Strange and Frere, J. J.