

## APPELLATE JURISDICTION (a)

*Special Appeal No. 578 of 1866.*AGRI SHARMA EMBRANDRI.....*Special Appellant.*VISHNU EMBRANDRI and 7 others.....*Sp. Appellants.**Special Appeal No. 580 of 1865.*JANARDHANA EMBRANDRI.....*Special Appellant.*PALAKIL KESAVA EMBRANDRI. *Special Respondent.*

The suits referred to in Act XX of 1863, as needing the authority of the Court for their institution, are solely suits charging trustees, managers or committees with misfeasance, malversation of the temple property, or neglect of duty. There is nothing in the Act to oust the jurisdiction of the ordinary Courts over suits to establish a right to share in the management.

1866.  
August 2.  
S. A. No. 578  
of 1865.

THESE were Special Appeals from the decisions of M. J. Walhouse, the Civil Judge of Mangalore, in Regular Appeals Nos. 118, 119, 120 and 157 of 1864, and No. 27 of 1865, reversing the decrees of the District Munsif of Bekal in Original Suits Nos. 405 of 1859 and 479 of 1861.

Plaintiffs sued to recover moveable and immovable property appertaining to the Vishnu Mangala Devasthan in the Ajanur village. The Civil Judge held that the subject matter of the suits should in the first instance be referred for decision to the Committee duly appointed for the superintendence and management of the affairs of the Devasthan. He therefore referred the parties to the Committee appointed under Act XX of 1863.

The plaintiff appealed.

*Srinivasa Chariyar*, for the Special Appellants, the Plaintiffs.

The Court delivered the following

JUDGMENT :—We are clearly of opinion that the Civil Court has misapplied Act XX of 1863. The judgment of

(a) Present :—Innes and Collett, J. J.

that Court did not state why the Act was considered applicable to the suits, and a reference had accordingly to be made to ascertain the grounds of decision which ought to have been set out in the judgment. The Committees appointed under Act XX of 1863 have no such powers as supposed by the Civil Court, and even the Revenue Board under the old regulation had no authority to interfere in the appointment of a manager, except where the right of appointment rested with, or had been solely exercised by, the ruling power. The suits referred to in Act XX of 1863, as needing the authority of the Court for their institution, are solely suits charging trustees, managers, or committees with misfeasance, malversation of the temple property, or neglect of duty. The present suits are to establish the right of the plaintiff to share in the management, and there is nothing in the Act to oust the jurisdiction of the ordinary Courts.

1866.  
August 2.  
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of 1865.

Under Section 351 we reverse the decrees below, and remand the appeals that they may be disposed of by the lower Appellate Court upon the merits.

*Appeals allowed.*

APPELLATE JURISDICTION (a)

*Referred Case No. 12 of 1866.*

PUDIYAPORAYIL MAMY.

*against*

MADAKARATH AMMAN KUTTI and 3 others.

Upon a case referred ; *Held* by the majority of the Court (Holloway and Collett, J. J., dissenting ) that, Section 53 of the Indian Registration Act XX of 1866, does not apply to a case where the Decree is sought against the alleged personal representatives of a deceased obligor. Reliance is placed upon the special registration as a substitute for any investigation by the Court, and when any question arises as to matter subsequent to the registration the summary remedy fails. It can only apply to cases in which the parties to the registration will also be the parties to the Decree.

CASE referred for the opinion of the High Court by G. R. Sharpe, Judge of the Court of Small Causes at Tellicherry. (b)

1866.  
August 9.  
R. C. No. 12  
of 1866.

(a) Present :—Scotland, C. J., Bittleston, Holloway, Innes and Collett, J. J.

(b) This case was first laid before Scotland, C. J., and Holloway, J., and, as they differed in opinion, was afterwards sent for the consideration of the other Judges.