

APPELLATE JURISDICTION. (a)

*Special Appeal No. 460 of 1871.*

NARASIMMA CHÁRIÁR and 11 others. *Special Appellants.*

SRI KRISTNA TATA CHÁRIÁR.....*Spl. Respondents.*

The plaintiffs members of the Tengalai sect of Brahmíns, sued the defendants, the trustees of a temple at Conjeveram, for the recovery of the money value of certain holy cakes which they alleged they were entitled to receive from the defendants for commencing the recital of a Sanscrit verse and reading a certain Tamil chant, which offices they (plaintiff) had the hereditary right of performing in the said temple. The Munsif decreed in favor of some of the plaintiffs. The defendants appealed. The Civil Judge dismissed the suit, on the ground that the question incidently involved was one of a religious character. *HII*, that the Civil Judge was wrong; that the claim was for a specific pecuniary benefit, to which plaintiffs declared themselves entitled on condition of reciting certain hymns; and that, unimpairedly, the right to such benefits is a question which the Courts are bound to entertain.

**T**HIS was a Special Appeal against the decision of E. B. Ford, the Civil Judge of Gingeeput, in Regular Appeals Nos 77 and 84 of 1869, reversing the decree of the Court of the District Munsif of Travellur in Original Suit No. 66 of 1865. 1871.  
December 15.  
S. A. No. 460  
of 1871.

The facts sufficiently appear in the following judgment of the Civil Judge.

“ The plaintiffs, 93 in number, who are members of the Tengalai sect of Brahmíns, sued the defendants, who are trustees of the temple of Sri Devarájá-á ni at Conjeveram, for the recovery of Rs. 167-3-8, being the money value of certain holy cakes which they alleged they were entitled to receive from the defendants for commencing the recital of a Sanscrit verse called “ Sri Smaladáyapatram” and reading the Tamil chant called “ Prabandum,” which offices they had the hereditary right of performing in the said temple.

The defendants pleaded that the plaintiffs had no right to commence the recital of the said verse and chant, and had therefore no claim to receive the holy cakes in question. They further pleaded that as the suit was of a purely religious nature, the Munsif’s Court had no jurisdiction in the matter.

(a) Present : Morgan, C. J. and Holloway, J.

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The District Munsif was of opinion that the 1st, 2nd 4th, 5th, 9th, 24th, 28th, 38th, 46th, 76th and 79th plaintiffs were entitled to perform the duties in question, and awarded them Rs. 57-5-9 in satisfaction of their claim. He disallowed the claim of the remaining plaintiffs.

Both parties appealed against this decision. The plaintiffs on the ground that they were all equally entitled to recover the whole amount claimed, and the 2nd defendant because the Munsif decided against the evidence.

At the hearing, the 2nd defendant's pleader urged that the suit was not cognizable by the Civil Court, as it relates to matters of religious ceremonial, and he cites *Regular Appeal No. 12 of 1862*, (1, M. H. C. R., 301) in support of his argument.

The plaintiff's pleader argues that the Civil Courts have jurisdiction in the case, and cites *Special Appeal No. 619 of 1868* (4, M. H. C. R., 349).

On referring to the reports of the above suits, I am of opinion that the former decision is applicable to the present case.

In order to find the plaintiffs entitled to the sum claimed as the money value of the holy cakes which they say the defendants are bound to give them, I must decide that the plaintiffs have the right of commencing the recital of the verse and chant for which the said cakes are given, that is, I must adjudicate a question of religious ceremonial and devotional observance in a Hindu temple. This seems to me to be a matter relating to the internal economy and management of the temple which the Civil Courts cannot take cognizance of.

Being, therefore, of opinion that the subject-matter of this suit is not of such a nature as to entitle the plaintiffs to maintain a civil suit, I shall reverse the decision of the District Munsif, and dismiss the suit with all costs."

The plaintiffs who had been successful in the Munsif's Court preferred a Special Appeal against the decree of the Civil Judge, upon the ground, among others, that the Civil Courts had jurisdiction to entertain the suit.

*Parthasaradhi Ayyangar* and *Rama Rau* for the special appellants, the 1st, 4th, 5th, 7th, 11th, 24th, 37th, 38th, 39th, 44th and 51st plaintiffs, and 3rd plaintiff's legal representative. 1871.  
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The Court delivered the following.

JUDGMENT :—In this case the Civil Judge has dismissed the suit on the ground that the question incidentally involved is one of a religious character. We are wholly unable to see how this view can be sustained. The claim is for a specific pecuniary benefit to which plaintiffs declare themselves entitled on condition of reciting certain hymns.

There can exist no doubt that the right to such benefits is a question which the Courts are bound to entertain, and cannot cease to be such a question because claimed on account of some service connected with religion.

If to determine the right to such pecuniary benefit, it becomes necessary to determine, incidentally, the right to perform certain religious services, we know of no principle which would exonerate the Court from considering and deciding the point. In so deciding we conceive that we do not touch any of the cases which have been referred to. With these observations we reverse the decree of the Civil Judge and remand the case for decision on the merits.

*Suit remanded.*