

of the villages were adequate to the discharge of encumbrances of an earlier date. Durai Pandien was not authorized to sell the estate, or to raise money, or incur debts for his own extravagant purposes and without limit. Notwithstanding the long delay on the plaintiff's part he is entitled to require from the defendants further evidence than they have given in support of their charge, and, in the absence of such evidence, we hold that the Court below has rightly decided that the plaintiff was entitled to a decree.

1875.  
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of 1875.

This appeal will be dismissed with costs.

*Appeal dismissed with costs.*

### Appellate Jurisdiction.(a)

*Regular Appeal No. 84 of 1875.*

KOSALA RAMA PILLAI and another... (Defendants) Appellants.  
SALUCKAI TE'VAR *alias* OYYA TE'VAR. (Plaintiff) Respondent.

Debts undertaken by the holder of an ancestral and impartible Polliaput in respect of decrees obtained against his mother cannot by such undertaking become a charge upon villages forming part of the estate.

Razinamah arrangements not made decrees of Court but irregularly acted upon as if they had been so made do not alone substantiate advances alleged to have been made.

**T**HIS was a Regular Appeal against the decree of the Subordinate Court of Madura in Original Suit No. 107 of 1873.

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November 10.  
R. A. No. 84  
of 1875.

*Mr. O'Sullivan and Bhashyam Iyengar*, for the defendants, appellants.

The *Advocate-General*, *Mr. Tarrant*, and *Mr. Shephard*, for the plaintiff, respondent.

This Appeal and Regular Appeals, Nos. 82 and 83 were heard together. For the arguments of Counsel see Regular Appeal No. 82 of 1875.(1)

The Court delivered the following

JUDGMENT:—Kosala Rama Pillai and Vasudéva Pillai, who are the appellants in Regular Appeal No. 84 of 1875

(a) Present:—Sir W. Morgan, C. J., and Innes, J.

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purchased the village of Kanakkangudi, one of the villages of the Polliaput of Padamathoor, from one Fischer on 7th September 1864.

In their written statement they merely mention the fact of purchase. They have not either in allegation or in evidence put forward anything in the nature of a defence to the effect that they are *bonâ fide* purchasers without notice for a valuable consideration, although the fact that Fischer received from them the purchase money mentioned is not disputed.

The appellants must we think be regarded as occupying the place of Fischer, and it is necessary to ascertain what his position was before the sale by him.

His title commenced in 1854 when three compromise arrangements of the kind already described were filed in Court on behalf of himself and the late proprietor of Padamathoor purporting to charge for Fischer's security different portions of the village. These all bore date the 17th day of October 1854, and were respectively made to secure payment of the sums of Rupees 7,000, 6,750 and 3,250, the two latter sums being due to Fischer for money lent.

Under these razinamah decrees, Fischer entered into possession which he was entitled to do by the terms of the arrangements according to which a power of sale (by Court process) was given to him on non-payment of the money after 4 years. On the expiration of this time Fischer caused the village to be sold in execution of the decrees.

The debt for 7,000 Rupees to which the first of these decrees relates arose thus—

Fischer obtained by purchase and transfer from the plaintiff in an old suit (which had been decided by the Sudder Court ultimately, the appeal being then numbered 23 of 1844) a decree for a sum of 3,910 Rupees which with interest is computed at the time of the compromise to amount to 7,000 Rupees. This suit was brought against Vijayalakshmi Nachiar the mother of the late proprietor of Padamathoor who had, according to the recital in the compromise of 1854,

undertaken to pay the "transfer plaintiff" Fischer the sum of 7,000 Rupees then ascertained to be due.

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In regard to this decree Fischer as the transferee must be considered as in effect the holder of the decree in the same sense and with the same right as the original plaintiff, except in so far as the arrangement of 1854 may have strengthened his claim.

Upon these three decrees process of execution having issued on the application of Fischer in January 1859, the right, title and interest of Durai Pandien in the property was attached and sold, Fischer himself becoming the purchaser. It is upon the title thus obtained by Fischer that the appellants rely. No evidence was adduced by them to show under what circumstances Fischer's advances were made. The facts that the advances were made and that they were secured by the razinamah decrees are alone relied on, and they are insufficient to support the charge. The debt undertaken by Durai Pandien in respect of the decree obtained against his mother could not by such undertaking become a charge upon the village. The subsequent purchase by Fischer himself in execution of his own decrees we conceive in no way varied or strengthened the claim of Fischer against the property.

No debt or claim affecting the property having been shown, the plaintiff was rightly held to be entitled to a decree. We shall affirm the judgment and dismiss this appeal with costs.

*Appeal dismissed with costs.*

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