

*Judgment of the Lords of the Judicial Committee of the Privy Council on the Appeal of Srimat Prathivadi Bhayankaram Govinda Charyulu and another v. Sri Rajah Rangayya Appa Rao Bahadur, since deceased, and others, from the High Court of Judicature at Madras (P.C. Appeal No. 75 of 1910); delivered the 13th December 1912.*

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PRESENT AT THE HEARING :

LORD MACNAGHTEN.

LORD MOULTON.

SIR JOHN EDGE.

MR. AMEER ALI.

[DELIVERED BY MR. AMEER ALI.]

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This is an Appeal from a judgment and decree of the High Court of Madras dated the 9th of March 1906, and arises out of a suit brought by one Desika Charyulu, since deceased, the father of the present Appellants, in the Court of the Subordinate Judge of the Kistna District, to recover possession of a village called Veleru, lying in the sub-district of Nuzvid.

The village in question appertained originally to the zamindari of Nuzvid, which belongs to the first Defendant. It appears to have been granted in perpetuity somewhere about the middle of the 18th century by the zamindar of the time to a priestly family whose last direct representative, Govinda Chariar, died in 1847. He left him surviving a widow named Perindevi and an infant son who died shortly after. Perindevi,

on the death of Govinda Chariar, obtained possession of the entire property including the village of Veleru, first as the guardian of her son, and afterwards as his heir entitled to the limited estate under the Hindu law. In 1885 she granted a lease of Veleru for ten years to the first Defendant, who is now represented by his son, the Respondent Appa Rao. And in 1887 she gave to him another lease for a further term of ten years. The Defendant is admittedly in possession of the village of Veleru under those leases.

Perindevi died in January 1888, and the present suit was brought by the Plaintiff in 1900, on the ground that he was the adopted son of Govinda Chariar, and that the leases created by the widow terminated with her death and were not binding against him. He also alleged that as the widow had been let by him into possession of the village in question, the Defendant was estopped from disputing or denying his title. In the alternative he urged that he along with his brothers, Defendants two to five, were the nearest reversioners to Govinda Chariar, and that, therefore, he was entitled to recover the village by virtue of his own right and of that of his brothers.

The Subordinate Judge, after a careful examination of the evidence, came to the conclusion that the Plaintiff had failed to establish his allegation of adoption by Govinda Chariar. He also held (on remand) that the story of the Plaintiff that he had been ever in possession of the properties left by Govinda Chariar, or that he let Perindevi into possession of the village of Veleru, was wholly untrue. But he thought there was some evidence that the Plaintiff and his brothers were the nearest reversioners to Govinda Chariar; and holding that the brothers had lost, owing to limitation, the right to recover their

shares, he gave the Plaintiff a decree for one-sixth of the property in suit.

Both parties appealed to the High Court, where the learned Judges affirmed the view taken by the Trial Judge on the first two issues. They held that the Plaintiff's story relating to adoption and possession was false, and that he had no right to maintain this action on either of those grounds.

These are concurrent findings of fact, and their Lordships are of opinion that it is not open to the Appellants to question those findings.

The High Court differed, however, from the Subordinate Judge with regard to the Plaintiff's right as the nearest reversioner to Govinda Chariar. They held, in effect, that the evidence tracing a common descent from a person named Annam, whose existence at some remote period of antiquity was involved in obscurity, was not satisfactory; nor was it clear that the Plaintiff and his brothers were the only persons claiming descent from Annam. As a matter of fact, it is in evidence that a number of persons living in Conjeeveram also claim to be descended from him. The High Court, accordingly, came to the conclusion that the Plaintiff had failed to establish his allegation that he was the next reversioner to Govinda Chariar, and reversing the Judgment of the Subordinate Judge, dismissed the suit.

Their Lordships are of opinion that the view taken by the learned Judges is well-founded, and that the Plaintiff having failed to establish any title against the Defendants, his action was properly dismissed.

Their Lordships will, therefore, humbly advise His Majesty that this Appeal should be dismissed with costs.

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In the Privy Council.

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SRIMAT PRATHIVADI BHAYANKA-  
RAM GOVINDA CHARYULU AND  
ANOTHER

*v.*

SRI RAJAH RANGAYYA APPA RAO  
BAHADUR, SINCE DECEASED, AND  
OTHERS.

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DELIVERED BY MR. ANEER ALL.

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