

AIR 1925 Mad 1066

Madras High Court

Case No: None

(Kopparaju
Gunichandill) Sekhard
Rao and Others

APPELLANT

Vs

Kopparaju Ramaraju
Seshaya

RESPONDENT

Date of Decision: Aug. 4, 1924

Citation: AIR 1925 Mad 1066

Judgement

1. Two points have been argued in this second appeal. The first is that Kamamma prescribed only for a widow's title and secondly, that her claim

to title by adverse possession is barred by reason of the decision in Suit No. 57 of 1914.

2. As regards the first point, there is no evidence that Kamamma ever declared that she was in possession of the plaint property in her right as the

widow of her husband. The evidence is that her mother in law died in 1894 and after her death Kamamma was in possession for more than 12

years. Her possession was the possession of an ordinary trespasser and the onus is upon the reversioner to show that she prescribed for a title less

than that of a full owner. Vide Lachhcm Kunwar v. Manorath Ram (1895) 22 Cal. 445 and Vengiduswamy Aiyar v. Narayanaswamy Aiyar

(1914) 24 I.C. 880.

3. As regards the second point: there was no decision that the property in the possession of Kamamma was the property that she inherited from

her husband Venkatarayudu. The previous suit was with regard to some property which is not the subject of the present suit. The suit was brought

by a person claiming himself to be the adopted son of Venkatarayudu. As his adoption was challenged in that suit, Kamamma consented to be

made the second plaintiff, and she pleaded that the property was in her possession as well as in the possession of first plaintiff. It is quite clear from

Ex. B that she did not set up a title to that property as the widow of Venkatarayudu. Much is made of the fact that she adopted the pleadings filed

by the first plaintiff. But that circumstance will not be sufficient to make out that with regard to the present properties she put forward a title which

was antagonistic to "her present title. We find both the points against the appellant and the second appeal is dismissed with costs.