

*Reasons for the Report of the Lords of the
Judicial Committee of the Privy Council
on the Appeal of Sankaralinga Nadan and
others v. Raja Rajeswara Dorai alias
Mutturamalinga Dorai and others, from
the High Court of Judicature at Madras;
delivered the 1st July 1908.*

Present at the Hearing :

LORD ROBERTSON.

LORD ATKINSON.

LORD COLLINS.

SIR ANDREW SCOBLE.

SIR ARTHUR WILSON.

[Delivered by Lord Robertson.]

The question between the parties is whether the Appellants and the caste to which they belong have legal right to enter and worship in a temple at Kamudi. This temple is dedicated to the worship of Shiva, and the customary ceremonies of Hindu worship are there carried on. It is common ground between the disputants that the Appellants represent a caste called the Nadar or Shanar caste. It is alleged by the Respondents that the presence of persons belonging to the Appellants' caste is repugnant to the religious principles of the Hindu worship of Shiva and to the sentiments of the caste Hindus who worship in this temple, and that it is contrary to custom in this temple. Both Courts in India have decided against the Appellants, the judgment of the Subordinate Judge discussing the question in great detail

and with much research, and the High Court at Madras resting their decision upon extremely comprehensible and cogent grounds.

The controversy touches, but does not involve, delicate and abstruse questions of Hindu religious doctrine. In the view of their Lordships, it admits of decision upon a much more palpable and limited range of facts.

First of all, the Appellants, as matter of fact, worship by themselves in a temple of their own. Second, the result of the evidence is a complete failure to prove any resort by persons of the Appellants' caste to the temple in dispute. Those two facts not merely negative the case of the Appellants that they "have been from time immemorial . . . participating in the pooja and worship" in the disputed temple, but they make easy the Respondents' further contention that this separation in worship between the two classes was not accidental or voluntary, but rested on a deeper ground.

The evidence has been admirably analysed by the High Court, and their appreciation of the quality of the evidence, on the one side and on the other, concurring as it does with that of the Subordinate Judge, is entitled to the greatest weight.

The argument addressed to their Lordships was directed rather against the soundness of the doctrine asserted by the Respondents as involving the exclusion of Nadars, and it was endeavoured to show that there were inconsistencies in the Respondents' treatment of the Appellants in other respects. All this, however, as matter of theological argument, is too rationalistic; while, on the other hand, it wanders from the region of fact and custom. What the Respondents have succeeded in proving is that

by custom the Appellants are not among the people for whose worship this particular temple exists.

Their Lordships have spoken of "the Respondents," generally; but it is necessary to note the episode in the proceedings euphemistically described as "the compromise." The original Plaintiff in the suit was the Rajah who was the hereditary trustee of this temple, which was the temple of one of the villages in his zemindari. After the case had been decided in his favour by the Subordinate Judge, this person thought fit to profess that he now saw that he and the judge were wrong; and he asked that the judgment should be altered, so as to defeat his own action. A very sordid motive for this surrender was specifically asserted and has not been disproved. The Court, on being applied to, very properly reinforced the cause of the worshippers of the temple by joining certain new Plaintiffs to the original Plaintiff (whose confidence in the justice of his suit had by this time convalesced). The principles applicable to the case of a trustee who thus betrays his trust by surrendering a decree have been well stated and applied by the High Court.

For these reasons their Lordships, on the 16th June last, agreed humbly to advise His Majesty that the Appeal ought to be dismissed, and ordered the Appellants to pay the costs of the Appeal.

