

5 B. 80=5 Ind. Jur. 427.

[80] APPELLATE CIVIL.

Before Mr. Justice M. Melvill and Mr. Justice Kembball.

VASUDEV AND ANOTHER (*Original Defendants*), *Appellants v.*
 VAMNAJI AND OTHERS (*Original Plaintiffs*), *Respondents.**
 [21st September, 1880.]

Religious rites and ceremonies—Jurisdiction of the Civil Courts—Civil Procedure Code, X of 1877, s. 11—Suit by Temple Committees against Pujaris.

Suits as to religious rites or ceremonies, which involve no question of the right to property or to an office, are not suits of a civil nature, nor are they intended to be brought within the jurisdiction of the Civil Courts. A suit, therefore, by the plaintiffs, as members of a committee of management of a Hindu temple, to compel the hereditary priests of the temple to take out certain ornaments from the treasury of the managing committee, and to place them upon the image of the god, on such high days and holidays as might from time to time be appointed by the managing committee, and to obtain a declaration that the said ornaments, after they had been so taken out of the treasury were in the custody of the priests, and that they were responsible for their safe custody was held unsustainable.

Section 11 of the Civil Procedure Code, Act X of 1877, introduces no new law, but merely declares the law as it has always been administered.

[F., 32 C. 1072 (1076)=2 C.L.J. 570=10 C.W.N. 505; 2 M.L.T. 94; R., 11 M.L.J. 215 (223); D., 33 B. 387=11 Bom. L. R. 389 (394)=2 Ind. Cas. 419; 30 M. 158 =17 M.L.J. 1=2 M.L.T. 69.]

THIS was a second appeal from the decision of C. B. Izon, Judge of Ratnagiri, confirming the decree of the Subordinate Judge of Chiplun, who allowed the plaintiffs' claim. The defendants appealed to the High Court.

Pandurang Balibhadra, for the appellants.

Rao Saheb V. N. Mandlik, for the respondents.

JUDGMENT.

The facts, so far as they are material, appear from the following judgment of the Court delivered by

M. MELVILL, J.—This suit was brought by the plaintiffs, as members of a committee of management of a Hindu temple, to compel the defendants, who are hereditary *pujaris* or priests of the temple, to take out certain ornaments from the treasury of the managing committee, and to place the same upon the image of the god, on such high days and holidays as may from time to time be appointed by the managing committee; and, further, to obtain a declaration that the said ornaments, after they have been so taken out of the treasury, are in the custody of the defendants, and that the defendants are responsible for their safe keeping.

[81] The defendants took exception to the suit, on the ground that it had not been brought by all the members of the managing committee. They also stated that they had no objection to put the ornaments on the idol; but they alleged that they were not responsible for their safe custody, but that the duty of taking the necessary measures for the safety of the ornaments rested upon the managing committee.

Both the lower Courts have awarded the claim. It does not appear that in either Court any question was raised as to the jurisdiction of a

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Civil Court to entertain such a suit; nor is any objection of the kind set forth in the memorandum of appeal to this Court. But, on the first statement of the case, it appeared to us more than doubtful whether a Civil Court is competent to issue an injunction, which could only be enforced by imprisonment, to compel the performance of the ceremonial of idol worship; and we, therefore, expressed a wish that the arguments should be, in the first instance, directed to this point; and we adjourned the case, at the request of the learned pleader for the respondents, as he was not at the moment prepared to discuss the preliminary question raised by the Court.

We have now heard this question fully argued; but we have heard no argument, nor has any authority been quoted to us, which has in any way altered the opinion which we were at first inclined to express. The regulation of religious ritual is not within the province of the Civil Courts. In England, no doubt there are Courts which have power to compel the due performance of public worship; but they are Courts specially constituted for the purpose; and this circumstance in itself indicates that there is no such jurisdiction inherent in the ordinary Civil Courts. And even the Courts so specially constituted can only deal with the ceremonial of the established church, which is the form of worship of the State; and they have no power to interfere for the purpose of regulating the rites and usages peculiar to any dissenting sect or body. In India there is no State Church; and no Courts empowered to deal with question purely ecclesiastical, whether arising in the Christian, Hindu, or any other community. It is the policy of the State to protect all [82] religions, but to interfere with none. It is for those who profess any form of religion to adopt such ritual as they think fit, and to make and enforce such rules as may be necessary to secure its due observance. With such matters the Civil Courts have nothing to do, unless and until they result in an infraction of civil rights. Section 11 of Act X of 1877 was passed after the present suit was instituted; but it introduces, as we think, no new law, but merely declares the law, as it has always been administered. That section provides that "a suit in which the right to property or to an office is contested is a suit of a civil nature, notwithstanding that such right may depend entirely on the decision of questions as to religious rites or ceremonials." It follows, by implication, that suits as to religious rites or ceremonies, which involve no question of the right to property or to an office, are not regarded by the Legislature as suits of a civil nature, nor intended to be brought within the jurisdiction of the Civil Courts.

For these reasons we are of opinion that the plaintiffs cannot obtain the injunction which they demand. Nor do we think that a declaration can be made, fixing by anticipation upon either party responsibility for a loss which may never occur. If the ornaments belonging to the temple should ever be lost or stolen, it will be time enough to apply to the Civil Courts to determine on whom the liability should be thrown.

The decrees of the lower Courts are reversed, and the claim rejected, with costs on the plaintiffs throughout.

Decrees reversed.