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RAMA
v.
SHIVRAM.

the present defendants on it, the right of Dhanji Khandu to take his bullock first in the procession in alternate years named in the agreement would be terminated by Vithu Jairam personally paying Rs. 25 once for all to Dhanji Khandu—a payment for which there does not appear to have been any consideration. And even this Rs. 25 is payable by Vithu Jairam personally to Dhanji Khandu only if the latter sustain damage or loss from his bullock being obstructed in the *Pola* procession. Not only is there no evidence of damage or loss, but it is admitted that no damage or loss of a pecuniary character has been caused to any one.

We must reverse the decrees of both the lower Courts and reject the claim. The parties should bear their own costs in the Court of first instance, but the costs in the District Court and in this Court must be borne by plaintiffs.

Decree reversed.

APPELLATE CIVIL.

Before Mr. Justice Melvill and Mr. Justice Kimball.

DHADPHALE (ORIGINAL DEFENDANT), APPELLANT, v. GURAV,
(ORIGINAL PLAINTIFF), RESPONDENT.*

*Cause of action—Offering of food to idol—Suit for damages on account
Of omission to offer food.*

The plaintiff, alleging that he was a member of a family of *Guravs* holding a *watan* attached to a temple, complained that the defendant was the holder of an *inam* allowance, granted in consideration of his daily offering to the idol some rice and cake, and burning a lamp; and that he had omitted to make such offering for one year. The plaintiff claimed Rs. 15 damages.

Held that the plaintiff had no cause of action. The defendant's obligation, if any, was towards the idol; and, if that obligation had not been performed, it could only be enforced by some person claiming to have a right to insist that the worship of the idol should be properly performed.

This was a second appeal from the decision of W. H. Newnham, Judge of Poona, confirming the decree of the First Class Subordinate Judge of Poona.

* Second Appeal, No. 103 of 1881.

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December 19.

The plaintiff alleged that he was a member of the family of *Guravs* the holders of a *vatan* attached to the temple of Bahiroba in the village of Pashan; that the defendant was the holder of an *inam* allowance granted in consideration of his daily offering to the idol some rice and cake and burning a lamp; that the defendant omitted to make such offering for one year; and hence the plaintiff claimed damages to the extent of Rs. 15. The defendant, among other things, urged that, during the year in dispute, he had offered the food in his own house to the idol, and that he had eaten it himself, and that it was not obligatory on him to take the food to the temple, and offer it to the idol there.

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Both the lower Courts allowed the plaintiff's claim.

The defendant appealed to the High Court.

Shantaram Narayan for the appellant.

Pandurang Balibhadra for the respondent.

The judgment of the Court was delivered by

MELVILL, J.—We think that the plaintiff, as he puts his case, has no cause of action. As a temple servant, he may have a right to take the food offered to the idol, and may maintain this right against any intruder who takes away the food after it has been offered. But in the present case he claims damages from the defendant on account of his omission to offer food to the idol, and the consequent loss, by the plaintiff, of the perquisites which he would otherwise have received. He brings this action on his own account, and for his own benefit, and not as the representative of the idol. We think that the defendant's obligation, if any, was towards the idol, and if that obligation has not been performed, it can only be enforced by some person claiming to have a right to insist that the worship of the idol shall be properly performed. The defendant is under no legal obligation to supply food to the temple servants; and though the result of his omission to supply food to the idol may involve a loss to the plaintiff, it is *damnum absque injuria*, and cannot entitle the plaintiff to maintain the present suit.

We reverse the decrees of the lower Courts, with costs in this Court. Each party to bear his own costs in the Courts below.

Decrees reversed.