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will have equally no discretion when applied to by one [309] to whom such person transfers a decree by assignment, oral or written. But by s. 232 of the Code such a discretion is given in plain terms, when the application for execution is made by one to whom a decree is transferred by assignment in writing or by operation of law. It is impossible to suppose that the Legislature can have intended this result. The only rule that would harmonize the sections in question is the rule laid down in substance in *Javermal* v. *Umaji*, namely, that an assignee under an oral assignment has, as such, no *locus standi* at all to apply for execution of a decree, but that as regards one who claims to be an assignee in writing or by operation of law, the Court has a discretion whether to recognize such assignment or not. And this result can be arrived at by not applying the definition in s. 2 to the construction of s. 230 as being "repugnant to the context."

This being our view, the order of the Court below must be reversed, and the application of the applicant dismissed with costs.

Order reversed.

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Before Mr. Justice Birdwood and Mr. Justice Parsons.

KALIDAS JIVRAM AND OTHERS (*Original Defendants*), *Appellants v.* GOR PARJARAM HIRJI AND OTHERS (*Original Plaintiffs*), *Respondents.** [8th October, 1890.]

Civil Procedure Code (Act XIV of 1882), *ss.* 26 *and* 30—*Joint suit by persons who had a common cause of action—Declaratory decree—Denial of right—Perpetual injunction—Specific Relief Act (I of* 1877), *ss.* 42 *and* 54.

The plaintiffs were the herditary *gors*, or priests, a residing at Dakor, who ordinarily conducted their *yajmans*, or patrons, to the temple of Shri Ranchhod Raiji, performed worship there on their behalf, and received remuneration for their services. The defendants were the *shevaks*, or ministers, of the idol; it was their duty to remain in constant attendance on the idol, perform the daily services at the temple, collect the offerings, and apply the same to the purposes of the foundation.

[310] On 12th October 1883 the *shevaks* issued rules prohibiting people from entering the *Nij Mandir* and *Saja Mandir*, which were particularly sacred chambers in the temple, except on payment of certain fees. Every visitor was required to purchase a ticket of admission to the interior parts of the temple.

The plaintiffs thereupon sued for a declaeation of their right of free access to the *Nij Mandir* and *Saja Mandir* at all times and on all occasions when the temple was open for purposes of public worship. They alleged that the new rules framed by the *shevaks* constituted as infringement of their immemorial rights of going into the said *mandirs* without any let or hindrance of worshipping the idol there for themselves and their patrons, and of receiving whatever their patrons gave them. They, therefore, sought for a perpetual injunction restraining the *shevaks* from interfering with their rights.

The plaintiffs were 208 in number. They filed the present suit under s. 30 of the Code of Civil Procedure (Act XIV of 1882).

The defendants contended, *inter alia*) that the plaintiffs had each a separate cause of action; that they had no right to sue jointly; that they were not entitled to a declaratory decree under s. 42 of the Specific Relief Act, and that

* Appeal, No. 36 of 1888.

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the plaintiffs never having been obstructed in the exercise of their rights, had no cause of action.

Held, that the suit was rightly constituted under s. 30 of the Code of Civil Procedure (Act XIV of 1882). The rules made by the *shevaks* in 1883 interfered with the immemorial rights of the *gors*, and gave a common cause of action to all the plaintiffs. They were, therefore, entitled to sue jointly.

Held, also, that the plaintiffs were entitled to a declaratory decree under s. 42 of the Specific Relief Act (I of 1877), as their title to free access with their patrons to the sacred shrines and to receive presents from their patrons unfettered by the rules of 1883 was denied by these rules.

Held, also, that the plaintiffs were entitled to further relief by way of perpetual injunction under s. 54 of Act I of 1877, as the defendants had threatened to invade their enjoyment of property, and the invasion was such that pecuniary compensation would not afford adequate relief.

Held, also, that the *shevaks* had no authority to issue the rules of the 12th October 1883, or to levy fees from worshippers in respect of any public religious services held in the temple.

[R., 20 C. 397 (408); 33 C. 789 (802)=10 C.W.N. 581; 25 Ind. Cas. 271.]

APPEAL from the decree of Dayaram Gidumal, Acting Assistant Judge of Ahmedabad, in suit No. 18 of 1887.

The plaint in this case contained the following allegations:—

1. "Plaintiffs are Tirwari Mewara Brahmins who have been from ancient times performing the duties of *gors* (or priests) hereditarily in connection with the *savasthan* of Dakor.

2. "At Dakor there is a temple of Shri Ranchhodji which is resorted to by the Vaishnavas as a place of pilgrimage for *darshan* and *puja*. The plaintiffs personally have the right of going into the *Nij Mandir* (where the idol stands) [311] and the *Saja Mandir*, at all times and on all occasions, without any obstruction, whenever the said *mandirs* are open, for doing *darshan, puja, charan sparsh, punchamrit puja, kesar snan, or nochawar* for placing *tulsi* offerings before the idols ..... and also *rajbhog*, and *samagri*, for putting on clothes and ornaments on the idol and for all other religious ceremonies. The plaintiffs have also the further right of going into the said *mandirs* with their *yajmans* or patrons. The plaintiffs have also the right of taking whatever *bhet* or offering is placed before the feet of the idol in the *nij mandir* or at the *saja mondir* by such *yajmans* or patrons and whatever is given to the plaintiffs by such *yajmans* or patrons at the time of *puja* in the *nij mandir* and also the *bhojan dakshina* given to the plaintiffs on the occasion of *rajbhog* offerings and also the money or articles which such *yajmans* or patrons may hold in their hands when going the rounds of the temple (*pradakshina* or *purkirma*), and also the money or articles which may be given by such *yajmans* and patrons in fulfilment of vows. The plaintiffs further claim a right to remove *rajbhog* or *samagri* after the idol had done eating them (ideally). All these rights are alleged to the immemorial.

3. "The defendants are *shevaks* of the idol and belong to three classes, *viz.*, *Khedawal* Brahmins, *Shrigor* Brahmins and *Topadhan* Brahmins. On 12th October 1883, with a view to wrongful gain, the defendants obstructed the plaintiffs in the exercise of the rights mentioned in paragraph 2. The said defendants made certain rules on *Asu Sud* 11, *Samvat* 1939, fixing a scale of fees to be levied for tickets of admission in to the *Nij Mandir and Saja Mandir*, and under these rules the plaintiffs were not allowed to go into these *Mandirs* personally or with their *yajmans*."

The plaint alleged that the plaintiffs had thereby sustained a heavy loss, which they estimated at Rs. 5,350.

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The plaintiffs, therefore, prayed, first, for a declaration of their rights, as set forth in paragraph 2 of the plaint, and, secondly, for a perpetual injunction restraining the defendants from interfering with the said rights.

The plaintiffs were 208 in number, and as they had the same interest in the subject-matter of this suit, 13 plaintiffs obtained leave to sue on behalf of the rest under s. 30 of the Code of Civil Procedure (Act XIV of 1882).

The defendants answered *inter alia* as follows:—

1. That the claim was overvalued.

2. That the plaintiffs had separate interest, and could not sue jointly under s. 30 of the Code of Civil Procedure.

3. That the suit was barred by ss. 42 and 56 of the Specific Relief Act (I of 1877).

[312] 4. That no cause of action had legally accrued to the plaintiffs.

5. That the idol and temple of Shri Ranchhod Raiji had been in the defendants' possession, as owners, for hundreds of years, and no person had any right to go into the *Nij Mandir* and other interior parts of the temple without the permission of the *shevaks*.

6. That the right to conduct all kinds of religious services in the said *mandir* and to receive offerings belonged to, and had been enjoyed for hundreds of years by, the *shevaks*, and neither the plaintiffs nor anybody else could enter the interior parts of the temple, even to place *tulsi* (sacred basil leaves) on the deity, without the *shevaks*' permission.

7. That all arrangements for the purposes of guarding the idol and opening and closing the temple, and allowing people to have *darshan* according to the tenets of the *Vaishnav* religion, had been always made by the *shevaks*, and the rules which they had enforced were quite justifiable.

8. That the plaintiffs were not the hereditary *gors* or priests of Dakor.

9. That the plaintiffs had not made any attempt, since the promulgation of the new rules, to enter the *Nij Mandir* and *Saja Mandir* and had never been obstructed in entering the same. They had, therefore, no right to bring the suit.

The Assistant Judge, to whom this suit was transferred from the Court of the First Class Subordinate Judge, found that the plaintiffs were the hereditary *gors*, or priests, of Dakor, and passed a decree in their favour, declaring that they "were entitled to the following rights (subject to the admitted right of the *shevaks* to enforce, in good faith, orderliness and decency of worship):—(1) to enter the *Nij Mandir* whenever it is open (except at *sakribhog darshan* time) for *darshan*, *charan sparsh*, *panchamrit puja*, *kesar snan*, *nochawar*, *tulsi* offerings, *rajbhog or samagri* offerings or offerings of clothes and ornaments, or for other *dharma kria* (religious ceremonies); (2) to enter the *Nij Mandir* with their *yajmans* for the same purposes whenever it was open (except at *sakribhog darshan* time) and to officiate at the [313] performance of *panchamrit puja* and *kesar snan* on the *sinhasan* with the permission of the *shevaks* in attendance on the idol, which permission must not be refused, unless such refusal was necessary, in good faith, for preserving orderliness and decency of worship; (3) to take whatever was put into their hands by *yajmans* accompanying them into the *Nij Mandir*, but nothing else while in the *Nij Mandir*; (4) to have *darshan* of the *Saja Mandir* from its lattice with or without *yajmans* whenever the *Nij Mandir* was open (except at *sakribhog darshan* time)."

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The plaintiffs were also declared entitled to an injunction restraining the defendants from interfering with their rights in any way. Against this decision the defendants appealed to the High Court.

Branson (with him Rao Saheb *Vasudev J. Kirtikar* and *Gokuldas K. Parikh*), for appellants.—The *shevaks* are the managers of the temple. They are the custodians of valuable property belonging to the idol. They are responsible for orderliness and decency of worship. The rules complained of were intended to prevent overcrowding. They are, therefore, strictly within the scope of our authority as managers of the temple. They do not contemplate any infringement or invasion of the plaintiffs' rights. If they do, each plaintiff has a separate and distinct cause of action, and each ought to have sued for himself. A joint suit, like this, cannot lie. In the present case 13 *gors* come forward to sue on behalf of 194 other members of their caste. This they have no right to do. The suit is open to the objection of misjoinder of parties as well as of causes of action—*Ramanuja* v. *Devanayaka* (1) ; *Jawahra* v. *Akbar Husain* (2) ; *Adamson* v. *Arumugam* (3) ; *Ali Serang* v. *Beadon* (4) ; *Thackersey Dewraj* v. *Hurbhum Nursey* (5). Section 30 of the Code of Civil Procedure (Act XIV of 1882) does not apply to a case like the present, where each plaintiff has a separate and distinct cause of action. We next contend that no cause of action has accrued to the plaintiffs. There is no evidence of any physical obstruction having ever been offered **[314]** to any one of them. The mere promulgation of the rules in 1883 does not give any cause of action. There is no denial, on our parts, of the plaintiffs' rights. The *shevaks* never refused permission to proper persons to enter the temple.

Mahadev Chimnaji Apte (with him *Ganpat Sadashiv Rao*), for respondents.—The evidence shows that permission has been refused to the *gors* as a body. They have been shut out of the temple under the present ticket-system. Unless and until they pay for the tickets, they have no admittance into the *mandir* whereas before they had free access to every part of the temple. The rules show in what spirit they have been framed. They were manifestly intended to interfere with our immemorial rights. They obstruct us in the exercise of our office and in the enjoyment of our emoluments. The plaintiffs have, therefore, a common cause of action for which a joint suit will lie under s. 30 of the Code of Civil Procedure. The *shevaks* have within the last twenty years instituted a new *bhog* called the *sakribhog*. They do not allow us to enter the temple at the time of this *bhog* unless we purchase tickets of admission. This is illegal. The *shevaks* have no right to levy any fees for this *bhog*.

JUDGMENT.

BIRDWOOD, J.—This is an appeal from the decision of the Assistant Judge of Ahmedabad. The suit was instituted in the Court of the First Class Subordinate Judge and was then transferred to the Assistant Judge. The first objection which has been taken before us to the decree appealed against is that the suit was overvalued, and that as the subject-matter would not exceed Rs. 5,000 if the suit were properly brought by those of the plaintiffs only who have a joint cause of action—if any such exists—the First Class Subordinate Judge had no jurisdiction to hear the suit.

(1) 8 M. 361. (2) 7 A. 178. (3) 9 M. 463.
(4) 11 C. 524. (5) 8 B. 432.

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and that it could not, therefore, be legally transferred to the Assistant Judge. This objection was taken in the defendants' written statement and was overruled by the Court below. We see no ground for holding that the suit was overvalued, or that, if there was any overvaluation, it has prejudicially affected the disposal of the suit on the merits.

The plaintiffs are *gors*, or priests, residing at Dakor, who ordinarily conduct those pilgrims who are their *yajmans*, or patrons, [315] to the temple of Shri Ranchhod Raiji and perform worship there on their behalf. They receive presents from their patrons. They claim the right of free access to certain parts of the temple at all times when it is opened by the defendants, who are the *shevaks* or officials of the temple, for purposes of public worship. They complain that certain rules were made by the defendants in 1883, by which a scale of fees was fixed for tickets of admission to the *Nij Mandir and Saja Mandir*, which are particularly sacred chambers in the temple. They allege, and we think rightly, that a common cause of action was given to all the *gors* at Dakor by the promulgation of these rules, which interfered with their immemorial rights (*cf. Ratanchand Bhikaridas* v. *Surat City Municipality* (1)). It is the object of this suit to test the legality of these rules; and all those whose interests are affected by them are entitled to sue jointly.

The present suit is brought by 208 plaintiffs; and as the tendency of the rules is to practically lessen the emoluments of the *gors*, the suit could be held to be overvalued only if the loss caused to the *gors* under the operation of the rules could be held to be not in excess of Rs. 5,000. No attempt has been made to show that the plaintiffs have suffered damage to a less extent. And, indeed, the objection would seem to fail if there has been no misjoinder of plaintiffs. As, for the reason already stated, we think that the plaintiffs are entitled to bring a joint suit, we are not satisfied that there has been an overvaluation of the suit. Moreover, under s. 7 of the Court Fees' Act, in suits to obtain a declaratory decree where consequential relief is prayed, the amount of fee payable must be computed according to the amount at which the relief is valued in the plaint or memorandum of appeal. And, obviously, if there has been any overvaluation, it cannot have prejudiced the disposal of the suit on the merits. The suit is not one in which damages are claimed. What the plaintiffs ask for is a declaration of their rights and an injunction. That being so, and as we have before us the materials necessary for the determination of the other grounds of appeal, we are bound by cl. (2) of s. 11 of Suits Valuation [316] Act VII of 1887 to dispose of the appeal as if there were no defect of jurisdiction in the Court below.

It has been further objected that the suit does not lie, as a mere denial of the plaintiffs' alleged rights would give no cause of action. It is also stated that only one of the plaintiffs has alleged that he was actually obstructed from entering the temple. But under s. 42 of the Specific Relief Act, 1877, any person whose title to any right as to any property is denied can sue for a declaration of his title, and may obtain a declaration of his title, if he does not omit to seek further relief which he may be able to seek. Here the title of the plaintiffs to free access with their patrons to the sacred shrines and to receive presents from their patrons, unfettered by the rules of 1883, was denied by those rules; and the plaintiffs had sought, not merely a declaration of title, but further

(1) Printed Judmgents for 1888, p. 137.

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relief in the form of a perpetual injunction ; and under s. 54 of the Specific Relief Act they are entitled to ask for that form of relief, as the defendants have threatened to invade their enjoyment of property, and the invasion is such that pecuniary compensation would not afford adequate relief. What the plaintiffs desire is to set aside the objectionable rules altogether and to continue to practise their profession as priests without any hindrance from the defendants, except such as they can lawfully impose as persons responsible for decency and good order at times of public worship within the precincts of the temple.

As to the merits of the rival claims of the *gors* and the *shevaks*, a mass of conflicting evidence has been adduced. The statements of the witnesses on one side are in direct conflict with those on the other. The evidence has been fully and ably dealt with by the Assistant Judge; and no attempt has been made by the appellants to satisfy us that his appreciation of it is wrong. He finds that the plaintiffs have succeeded in establishing their claim, except as to certain particulars; and we accept that finding as right; and think it necessary to modify the decree made by the Assistant Judge only as to certain matters. He has found generally in favour of the plaintiffs' right of free access to the *Nij Mandir*, whenever it is open, for the performance of certain **[317]** religious ceremonies, the exercise of this right being subject to the admitted right of the *shevaks* to enforce, in good faith, orderliness and decency of worship. Subject to the same right on the part of *shevaks*, he has found generally in favour of the plaintiffs' right to enter the *Nij Mandir*, whenever it is open, with the *yajmans*, and to officiate at certain ceremonies on the *sinhasan*, or platform, on which the image of Ranchhodji is placed, with the permission of the *shevaks* in attendance, "which permission must not be refused, unless such refusal is necessary, in good faith, for preserving orderliness and decency of worship." The plaintiffs are also allowed to take whatever is put into their hands by *yajmans* accompanying them into the *Nij Mandir*, but nothing else, while in the *Nij Mandir*; and, lastly, to have *darshan* of the *Saja Mandir* from its lattice, with or without *yajmans*, whenever the *Nij Mandir* is open. But the several rights which are accorded to the plaintiffs, whenever the *Nij Mandir* is open, are subject to an exception at the *sakribhog darshan* time. At that time, access to the *Nij Mandir* has been made subject to the rules of 1883. The *sakribhog* is a dinner offered to the idol. It is a recently instituted *bhog*, as to which the Assistant Judge makes the following remarks:—"In 1820 a rich *Vaishnava*, Mathur of Anand, gave Rs. 2,000 to the *mandir* in trust for a new *bhog*, to be called the *sakribhog*. The interest was to be spent on this *bhog*, and the fund was to remain untouched (Ex. 286). Another Vaishnava, Jamnadas, (Ex. 300), gave Rs. 2,100 for the same *bhog*, and now this *bhog* is the sixth *bhog* the idol gets. The money was deposited with the banking firm of 'Gopal Lalji' called after the idol's name. This firm, though called after the idol, is managed by the *shevaks* on true business principles, and its *hundis* are honoured and cashed on favourable terms by merchants (Ex. 300). This is certainly a significant fact, for it shows that the *shevaks* have a real substantial interest in the income of the temple." Again he says: "The *shevaks* have certainly identified themselves with the temple, and two of them have two images of Bodana in two temples, which are said by the witnesses to be their private property, while a third has another temple, that of Satyabhama. It is, therefore, no way surprising **[318]** to find them instituting a new *bhog* in addition to and without any prejudice to the old *bhog*. Nor is it surprising to find them issue

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passes for *darshan* at the time of this *bhog*. They were not fettered by usage in making regulations on this point, and their regulations on this point are justifiable. But the temple does not cease to be a public temple, simply because the *shevaks* have forbidden free *darshan* at a time when no *darshan* was ever allowed according to previous usage. They can extend *darshan* time for the benefit of the *vaishnav* community and in consonance with the public opinion as prevailing in such community, but I do not see how such extension implies necessarily a power to curtail the right of free *darshan*, if such right existed from the very commencement."

The *shevaks* are not the owners of the temples, nor are they the owners of offerings made to the idols. As recipients of offerings they are responsible for their due application to the purposes of the foundation; and they are liable as trustees, to render an account of their management. This was the position assigned to them by the judgment of this Court in *Manohar Ganesh Tambekar* v. *Lakhmiram Govindram* (1). And we do not think that by virtue of their office, as defined in that case, they have the authority to levy fees in respect of any public religious services held in the temple. The *sakribhog darshan* is a service which follows the *sakribhog*. As it is not an ancient service, the plaintiffs cannot prove an immemorial custom allowing them free access to the *Nij Mandir* at the time when it is held. But the *onus* is, we think, on the *shevaks* to prove that they can impress a purely private and special character on any service held in the *Nij Mandir* when it is open. If this right were recognized, they might take additional services during the night, from which they could practically exclude the *gors* by demanding fees unauthorized in respect of the old established *darshans*. We think that there ought to be clear authority for the right to levy fees from worshippers at any *darshan*.

Again, we think that it was unnecessary for the Assistant Judge to declare by his decree that the defendants were not [319] to refuse permission to the plaintiffs to officiate on the *sinhasan* unless such refusal is necessary in good faith for preserving orderliness and decency of worship. This proviso is unnecessary, because it is not shown that the *shevaks* have ever improperly refused permission where it ought to have been granted; and also because the right to grant or refuse permission must always be understood to be merely a part of the general right of the *shevaks* to enforce order and decency and prevent overcrowding—and because, further, if the permission is ever wrongly refused, the person aggrieved would have his remedy by suit. The words "admitted" and "in good faith" are also unnecessary in the decree. We, therefore, amend the decree of the lower Court by striking out therefrom in line 3 of the decree, as printed, the words "admitted" and "in good faith"; and, at the three places where they occur, the words "(except at *sakribhog darshan* time)": and, in cl. (2) of the decree, the words "which permission must not be refused unless such refusal is necessary in good faith for preserving orderliness and decency of worship."

Each party to bear his own costs of this appeal.

PARSONS, J.—I concur in the result of the judgment that has just been delivered, and I will add a few remarks only. The objection that by reason of the overvaluation of the suit the Court of first instance had not jurisdiction is one that, under the circumstances, cannot be allowed,

(1) 12 B. 247.

having regard to the provisions of cl. (2) of s. 11 of Suits Valuation Act VII of 1887. The objection that s. 30 of the Code of Civil Procedure does not permit of the present suit is untenable, since here we have a case, not of persons suing on behalf of a class, but of 208 persons suing for themselves, the 195 persons as per list (Ex. 5) having been actually brought up on the record as plaintiffs just as the 119 persons as per list (Ex. 6) have been brought on the record as defendants. The objection that under s. 26 of the Code the plaintiffs cannot all be joined in this suit, is also, I think, one that we ought not to entertain. The issue by the defendants of the rules under date the 12th October, 1883, gave a cause of action to each of the plaintiffs. It [320] also gave the same cause of action to all of them, since the rules prohibited their admission into the shrine of the temple for purposes of worship except on the production of passes to be obtained on payment. In so far as the issue of these rules gives the same cause of action to all the plaintiffs, I think the suit is rightly brought to have the obnoxious rules declared to be invalid, and this is really the main object for which it has been brought. No doubt the plaint goes further and asks for more relief than this. The issue of the rules have been made a peg on which the plaintiffs have hung many grievances and have sought for a declaration of all their general rights and privileges as *gors* and Brahmins as against the defendants, the *shevaks* of the temple, and the lower Court has decided upon these rights and has passed a decree defining and declaring them, and enjoining the defendants not to obstruct or interfere with them. This undoubtedly was improper, but I do not think that it was more than an irregularity of procedure, in effect the same as if the lower Court had ordered separate suits and then tried them together, taking the evidence recorded in one to be evidence in all the others. Considering that the present suit was filed in 1884, very strong grounds ought to be shown to induce us to quash all the proceedings that have been had since then. This is not done. The irregularity appears in no way to have affected the merits of the case, and certainly it has not affected the jurisdiction of the Court. I think, therefore, that we ought not to interfere, considering the provisions of s. 578 of the Civil Procedure Code (*Cf. Param* v. *Achal*(1)).

Upon the merits the decree of the lower Court is, in the main, correct. The rules framed by the defendants in October 1883 ordained that no one but a *shevak* should enter the *Nij Mandir* or the *Saja Mandir* without a pass to be purchased at certain fixed rates, and they restricted both the times at which and the places to which the worshippers were to be allowed to go for worship. Feeling aggrieved by the issue of these rules the plaintiffs have brought this suit (1) to obtain a declaration that they had the right to go personally into the *Nij Mandir* and [321] the *Saja Mandir* at all times and occasions, when the temple was open, and to take with them on all occasions, always and daily, their patrons and benefactors without the permission of any one to see and perform or cause to be performed the worship of the deity, and to receive whatever presents may be placed before the deity, together with what was given to them; and (2) for the issue of an injunction restraining the defendants from obstructing them in the performance of worship in the temple and in taking whatever their patrons might give them or offer to the deity.

Such of the rules which forbid admission to the *mandirs*, except on the production of a pass to be obtained on payment of a fee, are

(1) 4 A. 289.

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undoubtedly illegal and *ultra vires*. Rules can be made and enforced by the *shevaks* to ensure good order and decency of worship and to prevent overcrowding in the temple, but subject to these rules the right of entrance into a public temple, such as the present, for the purposes of worship, of the members of a caste entitled there to worship is a free right and cannot be prohibited or sold. The distinction that the lower Court has drawn between the *sakribhog darshan* and the other *darshans* is one that cannot be supported. The right also of the *gors* to officiate as priests with or for their *yajmans* is also undoubted, being proved to have existed from time immemorial,—in fact, it appears to be an essential part of the worship of the *yajmans*. In derogation or restriction only of these general rights of entry and of worship, it is shown that in this temple the ascent of the *sinhasan*, or platform, on which the idol is seated, is under the peculiar charge and protection of the *shevaks*, and that no one is ever allowed to ascend it without the permission of the *shevaks*, two of whom are always in attendance thereon, more perhaps on account of the extraordinary value of the idol and its ornaments than from any special sanctity of the place. The limits within which this permission is to be exercised cannot be defined in a decree. This is a matter which must be dealt with in each particular case ; a wrongful refusal giving in each case a distinct cause of action to the particular person injured thereby. It is sufficient to say [322] that it is a power which must be exercised, not capriciously, but only in good faith on necessary occasions and for necessary and legal purposes. Judging from the past there is no reason to suppose that there will be any abuse of it in the future. As regards the right to the offerings, the lower Court is undoubtedly correct. Whatever is placed upon or given to the idol belongs to the idol, that is, to the temple. The *gors* have the right to keep only what is given to them as remuneration for their own personal services wherever the gift is made.

Decree varied.