A

ATYAM VEERRAJU AND OTHERS

v.

PECHETTI VENKANNA AND OTHERS

September 20, 1965

B [A. K. SARKAR, M. HIDAYATULLAH, RAGHUBAR DAYAL, J. R. MUDHOLKAR, AND R. S. BACHAWAT, JJ.]

Adverse Possession—Suit lands owned by Deity—Sanad executed by trustee in 1851 *in favour of defendants—Defendants claiming permanent lease—Nature of rights conferred could not be presumed in favour of defendants without production of sanad—Defendants were lessees from year to year—Their possession not adverse to deity—As tenants they could not challenge title of landlord—Indian Evidence Act,* 1872, *s.* 116—*Indian Limitation Act,* 1908, *Arts.* 144, 134-*B,* 139.

C

The suit lands belonged to a Hindu Deity. In 1851 the then Archaka and *de facto* trustee of the temple arranged with P the great grandfather of the first defendant, that the latter would supply one fourth seer of gingili oil every day to the temple and instead of receiving the price of the oil would enjoy the income of the lands. The arrangement was reduced D into writing. The first defendant and his predecessors continued in possession of the lands under this arrangement. The arrangement was put an end to by notices dated December 6, 1948 and August 31, 1949 issued by the plaintiff's Advocate to the first defendant. The second defendant was a lessee to the suit lands under the first defendant. In their written statements the defendants denied that plaintiff was a trustee of the deity or had a right to sue on its behalf. Various other defences including that of E adverse possession were taken up. The trial court held: (1) The suit lands belonged to the deity, (2) the arrangement of 1851 amounted to a permanent lease of the lands by the then Archaka and *de facto* trustee of the temple to the ancestor of the first defendant on condition of his supplying one fourth seer of gingili oil every day to the temple and (3) the first defendant and his predecessors in interest had acquired title to the lands by adverse possession burdened with this condition. On these findings the trial court dismissed the suit. The decree was confirmed by the F High Court on appeal. Without expressing any opinion on the first two questions the High Court agreed with the finding of the trial court of the question of adverse possession. The plaintiff and two other persons appealed to this Court by special leave.

The following questions arose for decision: (1) Was the deity the owner of the suit lands? (2) If so, what rights were acquired by the ancestor of the first defendant under the arrangement of 1851 and (3) G Had P and his successors-in-interest acquired title by adverse possession subject to the burden of supplying oil every day?

HELD: (i) On an examination of the documentary evidence produced by both sides it was clear that the deity was the owner of the lands. [836 D]

(ii) The claim of the defendants that by the sanad dated November 10, 1851 the lands were conveyed to P subject to the burden of supplying oil for evening lighting purposes could not be accepted. Had the properties H been conveyed by the Sanad to P, he and his successors would have been entered in the village accounts as the inamdars and the pattas in respect of the suit lands would have been issued to them. But all along the deity was shown as the registered inamdar and the relevant pattas were issued

to the deity and not the plaintiff, or his successors. In spite of a notice served by the plaintiff the defendants had not produced the sanad. Their explanation that it was not in their possession could not be accepted. [836 E] A

(iii) Nor could it be accepted that under the Sanad dated November 10, 1851, P and his successors-in-interest acquired a right of permanent tenancy. Had the origin of the tenancy been not known an inference could fairly have been drawn from the facts that the tenancy was permanent. Having regard to the long lapse of time it could have been presumed that the permanent tenancy was granted for legal necessity. But in the present case the origin of the tenancy was known. The tenancy was granted by the Sanad dated November 10, 1851. Only the Sanad could show what interest was granted by it. The defendants had deliberately withheld this document, and therefore every presumption had to be made against them to their disadvantage consistent with the facts. It could therefore be presumed that the document if produced would have shown that the tenancy was not permanent. Considering all these facts it was clear that the Sanad granted to P was a lease of the suit lands from year to year in consideration of his rendering one fourth seer of gingili oil every day to the temple. [837 A; 838 E] B C

(iv) The Manager of the temple in 1851 had ample power in the course of the management to grant a lease from year to year. The lease was binding on the temple. It continued of its own force till terminated by notice in 1949. The possession of the tenants during the continuancy of the tenancy was therefore not adverse to the temple. [838 F-G] D

Vidya Varuthi Thirtha v. *Baluswami Ayyar*, (1921) L.R. 48 I.A. 302.

Moreover having regard to s. 116 of the Indian Evidence Act, during the continuance of the tenancy the defendants as tenants could not be permitted to deny the title of the deity at the beginning of the tenancy. [839 E] E

(v) Nor could the defendants be allowed to claim adverse possession from 1929 onwards on the basis of the adverse notice given by them to the Hindu Religious Endowments Board. The tenant cannot acquire by prescription a permanent right of occupancy in derogation of the landlord's title by mere assertion of such a right to the knowledge of the landlord. [839 F-G] F

Bilas Kunwar v. *Desraj Ranjit Singh*, (1951) I.L.R. 37 All. 557, *Mohammad Mumtaz Ali Khan* v. *Mohan Singh*, L.R. 50 I.A. 202, *Raghunath Venkatesh Deshpande*, L.R. 50 I.A. 255, *Patna Municipal Corporation* v. *Ram Das*, C.A. No. 598 of 1963 decided on August 11, 1965, and *Bastacolla Colliery Co. Ltd.* v. *Bandhu Beldar*, A.I.R. 1960 Patna 344, referred to.

(vi) The present suit was one by a landlord to recover possession from a tenant and was governed by Art. 139. The tenancy was determined in 1949 and the suit being instituted on November 1, 1954 was well within time. The defendants could not be said to have acquired title to the lands by adverse possession. [841 B-C] G

(vii) Art. 134-B of the Indian Limitation Act does not apply to a suit for recovery of a property where the property has been lawfully transferred by a previous manager, and the transfer remains effective after his death, resignation or removal. The transfer contemplated by Art. 134-B is an unauthorised and illegal transfer by the previous manager. [841 A-B] H

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 452 of 1963.

A Appeal by special leave from the judgment and decree dated March 24, 1960 of the Andhra Pradesh High Court in Appeal Suit No. 198 of 1957.

A. V. Viswanatha Sastri, K. Rangachari and *T. V. R. Tatachari*, for the appellants.

B *A. Ranganadham Chetty* and *T. Satyanarayana*, for the respondents.

The Judgment of the Court was delivered by

Bachawat J. This appeal arises out of a suit instituted by Atyam Veerraju as trustee of Sri Janardhana Swami Varu of Penu-
C gonda, a Hindu deity, against Nuli Subba Rao and Pechetti Venkanna for recovery of possession of agricultural Inam lands, R.S. No. 153/3, 2 acres 38 cents and R.S. No. 167, 4 acres 36 cents, totalling 6 acres 74 cents in Cherukuvada village, West Godavari District, Andhra Pradesh.

D The case made in the plaint is as follows: The suit lands belong to Sri Janardhana Swami Varu. In 1851, one Ponnuri Anandu, the then Archaka and *de facto* trustee of the temple, arranged with Nuli Peda Narasimhulu, the great grandfather of the first defendant, that the latter would supply one-fourth seer of
E gingili oil every day to the temple and instead of receiving the price of the oil would enjoy the income of the lands. The arrangement was reduced into writing. The first defendant and his predecessors have been in possession of the lands under this arrangement. The arrangement did not amount to an alienation; it gave only a license to receive the income and appropriate it towards the
F price of the oil. Even if the arrangement amounted to a lease, the plaintiff has a right to put an end to it and to recover the lands. The arrangement was put an end to by notices dated December 6, 1948 and August 31, 1949 issued by the plaintiff's advocate to the first defendant. The second defendant is a lessee of the suit lands under the first defendant.

G The defence is as follows: The plaintiff is not the trustee of the deity and has no right to sue on its behalf. There was no arrangement as alleged in the plaint. The first defendant is entitled to the suit lands subject only to the burden of supplying one-fourth seer of gingili oil every day to the temple out of its income. In 1851, there was an arrangement between Peda Narasimhulu, the
H great grandfather of the first defendant and Ponnuri Anandu, the then Archaka of the temple that Peda Narasimhulu would provide one-fourth seer of gingili oil every day to the temple out of the

income of the suit lands. This arrangement was reduced to writing. When this arrangement was made in 1851, Peda Narasimhulu was the owner in possession of the lands. Assuming that he got possession of the lands under the arrangement, Ponnuri Anandu and not the deity was the owner. Assuming that the lands belonged to the deity, the arrangement amounted to a transfer for valuable consideration of a permanent right for possession and enjoyment of the lands in favour of Peda Narasimhulu and his successors-in-interest, reserving for the deity only the right to the supply of the oil. The arrangement is binding on the deity. In any event, Peda Narasimhulu and his successors-in-interest have been in uninterrupted possession and enjoyment of the lands for over a century and have acquired title to the lands by adverse possession subject only to the burden of supplying the oil. The suit filed a century after the death or termination of office of Ponnuri Anandu is barred by time. Pending the suit, the first defendant died, and his legal representatives, the third and fourth defendants, were substituted in his place.

The Subordinate Judge, Eluru negatived the defence contention that the plaintiff is not the trustee of the temple, and this contention is no longer pressed. He found that (1) the suit lands belong to the deity, (2) the arrangement of 1851 amounted to a permanent lease of the lands by the then Archaka and *de facto* trustee of the temple to Peda Narasimhulu, on condition of his supplying one-fourth seer of gingili oil every day to the temple, and (3) the first defendant and his predecessors-in-interest have acquired title to the lands by adverse possession burdened with this condition. On these findings, he dismissed the suit. This decree was confirmed by the High Court on appeal. Without expressing any opinion on the first two questions, the High Court agreed with the finding of the trial Court on the question of adverse possession. The plaintiff and two other persons now appeal to this Court by special leave.

In this appeal, the following questions arise : (1) Is the deity the owner of the suit lands ? (2) If so, what rights were acquired by Peda Narasimhulu under the arrangement of 1851, and (3) Have Peda Narasimhulu and his successors-in-interest acquired title to the lands by adverse possession subject to the burden of supplying one-fourth seer of gingili oil every day to the deity ?

In support of their respective cases, both parties rely on documentary evidence. The documents filed by the plaintiff disclose that in all public records of the village of Cherukuvada, the deity is shown as the inamdar of the suit lands. The Inam Fair Register of

A Cherukuvada village (Ex. A-4) shows that since fasli 1203 corresponding to 1795 one Subnivas Raghoji Pantulu was the inamdar and in 1835, he sold the suit lands to one Murari Venkatarao, who, in his turn, sold the lands in 1851 to Penugonda Sri Janardhana Swami Veru for Rs. 120. By an order of the Inam Commissioner dated October 27, 1859, the title of the deity as inamdar of the B suit lands was confirmed and title deed No. 469 was issued to the deity. In the Re-settlement Register of the village prepared in 1932 (Ex. A-6) also, the deity is shown as the inamdar. In the Inam 'B' Register for the village for fasli 1342 corresponding to 1934, the suit lands are described as *Devadavam*, the deity is shown as the inamdar and the occupation is shown as religious for the purpose C of *Deeparadhana* in temple. These records do not show that Peda Narasimhulu or his successors-in-interest had any interest in the suit lands. By an order dated October 26, 1931, the Hindu Religious Endowments Board, Madras framed a scheme for the temple under ss. 18 and 57 of the Madras Hindu Religious Endowments Act (Madras Act 2 of 1927) in the presence of Nuli Subba Rao, the D then successor-in-interest of Peda Narasimhulu. In the schedule to the scheme, the suit lands are shown to be the property of the deity in the possession and enjoyment of Nuli Subba Rao. Subject to certain modifications, which are not material for the purpose of this suit, the scheme was confirmed by a decree of the District Judge, West Godavari on December 4, 1937, in O.S. No. 30 of E 1932.

The documents disclosed by the defendants show that since 1851 Nuli Peda Narasimhulu, his son, Subbarayudu, his grandsons, Sriramulu and Narasimhulu, and his great grandson, Nuli Subba Rao, possessed and enjoyed the suit lands. Exhibit B-1 F dated October 19, 1895 shows a mortgage and lease for six years by Sriramulu and Narasimhulu, Ex. B-2 dated April 7, 1902 discloses a mortgage and lease by Sriramulu, Exs. B-3, B-4, B-5 and B-6 show a mortgage and lease for five years by Sriramulu on March 1, 1910 and Ex. B-7 dated March 10, 1938 and Ex. B-8 dated August 19, 1942 are leases of the suit lands for five years and G eight years executed by Subba Rao. These documents and particularly Exs. B-3, B-4 and B-5 recited that the lands were entered in the name of the deity in the village accounts of Cherukuvada and from generation to generation were in the possession and enjoyment of the family of Peda Narasimhulu who got them under the Sanad dated November 10, 1851 for purposes of *Nanda Deepam* (evening H lighting) of the deity. It is not shown that these documents and the recitals in them were brought to the notice of the temple authorities. These unilateral declarations cannot affect the title of the

deity. Moreover, these documents contain admissions that the lands were entered in the village accounts in the name of the deity. By a notice dated June 16, 1929, the Hindu Religious Endowments Board demanded from Nuli Subba Rao annual contribution for the expenses of the temple. By his reply dated October 25, 1929, Nuli Subba Rao denied liability for the payment of the contribution and alleged that the lands were granted to his great grandfather, Peda Narasimhulu, by Ponnuri Anandu under the Sanad dated November 10, 1851, subject to the condition of supplying one-fourth seer of oil every day to the deity, and under the terms of the Sanad, the lands passed to Peda Narasimhulu and the deity is entitled to get only the oil and to no other right. But soon thereafter on notice to Nuli Subba Rao, the Board framed the scheme dated October 26, 1931 declaring the lands to be the properties of the temple. The documents produced by the defendants do not displace the entries in the Inam Fair Register, the Inam 'B' Register and the Re-survey and Re-settlement Register, which show that the suit lands are *Devadayam*, the deity is the registered inamdar and the pattas were issued to the deity. We are satisfied that the deity is the owner of the lands. We reject the claim of the defendants that in 1851 either Peda Narasimhulu or Ponnuri Anandu was the owner.

We also reject the claim of the defendants that by the Sanad dated November 10, 1851, the lands were conveyed to Peda Narasimhulu subject to the burden of supplying oil for evening lighting purposes. Had the properties been conveyed by the Sanad to Peda Narasimhulu, he and his successors would have been entered in the village accounts as the inamdars and the pattas in respect of the suit lands would have been issued to them. But all along, the deity is shown as the registered inamdar and the relevant pattas were issued to the deity and not to Peda Narasimhulu or his successors. In spite of a notice served by the plaintiff, the legal representatives of Nuli Subba Rao did not produce the Sanad. We are unable to accept their explanation that they are not in possession of the Sanad. They have produced other ancient documents. A perusal of Exs. B-3 to B-7, A-9 and the written statement shows that up to the date of the filing of the written statement the Sanad was in the possession of the successors of Peda Narasimhulu. We are satisfied that the legal representatives of Nuli Subba Rao are still in possession of the Sanad and that they have deliberately withheld it.

We must now examine the claim of the defendants that under the Sanad dated November 10, 1851, Peda Narasimhulu and his

A successors-in-interest acquired a right of permanent tenancy. The onus is upon the defendants to establish this claim. Where the tenancy is granted by an instrument in writing, the question whether the tenancy is permanent is a matter of construction, having regard to the terms of the deed, and where the language of the deed is ambiguous, having regard also to the object of the lease, the cir-
B cumstances under which it was granted and the subsequent conduct of the parties, for an instance, see *Sivayogeswara Cotton Press, Devangere* v. *M. Panchaksharappa*(1). If the origin of the tenancy is not known, the tenant may lead circumstantial evidence to establish his permanent right of occupancy. The evidence of long possession coupled with other circumstances
C such as uniform payment of rent, construction of permanent structures, successive devolutions of property by transfer and inheritance may lead to the inference that the tenancy is permanent, see *Bejoy Gopal Mukherji* v. *Pratul Chandra Ghose*(2). The Court may refuse to draw this inference of a permanent tenancy at a fixed rent where the demised land belongs to a Hindu religious endowment,
D for the manager of the endowment has no power to grant such a lease in the absence of legal necessity, and the Court will not presume a breach of duty on his part. See *Maharanee Shibissouree Debia* v. *Mothooranath Acharjoo*(3), *Naini Pillai Marakayar* v. *Ramanathan Chettiar*(4). But the disability of the manager to
E grant a permanent lease at a fixed rent is not absolute; he may grant such a lease for legal necessity. If by the production of the original grant or by other cogent evidence the tenant establishes the grant of a permanent lease by him and the validity of the lease comes in question after a long lapse of time when direct evidence of the circumstances under which the grant was made is no longer
F available, the Court will make every presumption in favour of its validity and may assume that the grant was made for necessity, see *Bawa Sitaram v. Kasturbbhai Manibhai*(5). This case was followed in *Mahammad Mazaffar-Al-Musavi* v. *Jabeda Khatun*(6), where similar principles were applied to the case of a Muslim religious endowment.

G Now, consider the facts of the present case. The defendants proved that Peda Narasimhulu and his successors-in-interest for four generations have been in continuous and uninterrupted possession of the suit lands for over a century since 1851. They supplied to the temple one-fourth seer of gingili oil every day for the
H evening lighting of the temple during all these years. In 1851, the lands were dry, fetching very little income, and it is possible

(1) [1962] 3 S.C.R. 876.
(2) [1953] S.C.R. 930.
(3) [1869] 13 M.I.A. 270, 275.
(4) (1923) L.R. 51 I.A. 83, 96-98.
(5) (1929) L.R. 49 I.A. 54.
(6) (1930) I.L.R. 57 Cal. 1293 P.C.

that one-fourth seer of gingili oil daily was then a reasonable rent. Subsequently, the lands were converted into wet lands, and they are now fetching a large income. In spite of the increase in land and the letting value, the temple authorities made no attempt to raise the rent of the lands or to evict the tenants. From time to time, the tenants created mortgages and leases of the suit lands for short periods. Had the origin of the tenancy been not known, we could from the facts fairly draw the inference that the tenancy was permanent. Having regard to the long lapse of time, we might even have presumed that the permanent tenancy was granted for legal necessity. But in this case, the origin of the tenancy is known. The tenancy was granted by the Sanad dated November 10, 1851. Whether or not a permanent tenancy was granted is a question of construction of the Sanad. Only the Sanad could show what interest was granted by it. The most striking feature of this case and the thing which tilts the scales against the defendants is the non-production of this Sanad. The defendants have deliberately withheld this document. We should, therefore, make every presumption against them to their disadvantage consistent with the facts. We hold that the document, if produced, would have shown that the tenancy is not permanent. The proved facts are consistent with a lease rather than a license. The manager of the temple in the ordinary course of management had authority to grant leases of the agricultural lands from year to year. Considering all these facts, we hold that the Sanad granted to Peda Narasimhulu a lease of the suit lands from year to year in consideration of his rendering one-fourth seer of gingili oil every day to the temple.

The next question is whether the suit is barred by limitation and adverse possession. The manager of the temple had no authority to grant a permanent lease of the temple lands at a fixed rent without any legal necessity; and had he granted such a lease, it would have endured for the tenure of his office only. See *Vidya Varuthi Thirtha* v. *Baluswami Ayyar*(1). But he had ample power in the course of management to grant a lease from year to year. The lease from year to year granted by Ponnuri Anandu in 1851 was, therefore, binding on the temple. This lease did not terminate with the expiry of the office of Ponnuri Anandu or the succeeding managers. It continued of its own force until it was terminated by notice in 1949. The possession of the tenants during the continuance of this lease was not adverse to the temple.

The defendants, however, contend that the possession of Nuli Subba Rao became adverse as from October 25, 1929 when by a

(1) (1921) L.R. 48 I.A. 302.

notice (Ex. A-9) of that date he asserted a hostitle title. This notice was addressed to the President, Hindu Religious Endowments Board, Madras. The object of the notice was to deny the liability of Subba Rao to pay any contribution to the Board in respect of the temple. Incidentally, Subba Rao claimed title to the suit lands under the Sanad dated November 10, 1851, subject only to the burden of supplying gingili oil to the temple daily. This claim was based on the Sanad and ultimately it was a question of construction of the Sanad whether it granted the right claimed by Subba Rao. We have already held that under the Sanad the grantee got a tenancy from year to year only. Moreover, after the service of this notice, the Hindu Religious Endowments Board, Madras framed a scheme in the presence of Nuli Subba Rao declaring that the suit lands belonged to the deity. No objection was raised by Nuli Subba Rao to this scheme. It is to be noticed also that the trustees of the temple were not served by Nuli Subba Rao with the notice of his claim of absolute right to the suit lands. It is not shown that since October 25, 1929 Nuli Subba Rao continued to be in possession of the suit lands on the basis of a notorious claim of a hostitle title.

Having regard to s. 116 of the Indian Evidence Act, 1872, during the continuance of the tenancy, a tenant will not be permitted to deny the title of the deity at the beginning of the tenancy. In *Bilas Kunwar* v. *Desraj Ranjit Singh*(1), the Privy Council observed :

> "A tenant who has been let into possession cannot deny his landlord's title, however defective it may be, so long as he has not openly restored possession by surrender to his landlord."

It is also well settled that during the continuance of the tenancy, the tenant cannot acquire by prescription a permanent right of occupancy in derogation of the landlord's title by mere assertion of such a right to the knowledge of the landlord. See *Mohammad Mumtaz Ali Khan* v. *Mohan Singh*(2), *Madhavrao Waman Saundalgekar* v. *Raghunath Venkatesh Deshpande*(3), *Naini Pillai Marakayar* v. *Ramanathan Chettiar*(4). In the last case, Sir John Edge said :

> "No tenant of lands in India can obtain any right to a permanent tenancy by prescription in them against his landlord from whom he holds the lands."

(1) (1915) I.L.R. 37 All. 557, 567.
(2) L.R. 50 I.A. 202.
(3) L.R. 50 I.A. 255.
(4) L.R. 51 I.A. 83.

These decisions received the approval of this Court in *Patna Municipal Corporation* v. *Ram Das*(1). In the last cited case, this Court refrained from pronouncing upon the soundness of the following observations in *Bastacolla Colliery Co. Ltd.* v. *Bandhu Beldar*(2) :

> "There are, however, some cases in which a lessee can acquire the right of a permanent right by prescription in spite of payment and acceptance of rent. Those are cases where the lessee pays rent on the basis of a notorious claim of permanent tenancy to the knowledge of the owner. The acceptance of rent by the owner on the basis of the lessee's claim as a permanent tenant will not prevent the acquisition of such a right by the lessee."

As we did not hear any argument on that point, we do not also decide whether this passage lays down the correct law. This passage must be read with the following observation of the Patna High Court in the same case :

> "If once a tenancy of some kind comes into existence either under an express lease or under a lease implied by law, the tenant cannot convert his tenancy into a permanent one by doing any act adverse to the landlord."

In the instant case, on October 25, 1929, Nuli Subba Rao was a tenant and by an adverse notice during the continuance of his tenancy he could not acquire absolute title to the suit lands, nor could he convert his tenancy into a permanent one. Moreover, it is not shown that since 1929 Nuli Subba Rao held the suit lands under a notorious claim of either an absolute title or a permanent tenancy, or that he supplied oil to the temple on the basis of such a claim.

It follows that during the period from 1851 to 1949 the possession of Peda Narasimhulu and his successors-in-interest was not adverse to the deity. During the period from 1851 to 1929 the title of the deity was not extinguished by adverse possession under s. 28 read with Art. 144 of the Indian Limitation Act, 1908 (Act IX of 1908) and the corresponding s. 28 and Art. 144 of the Indian Limitation Act, 1877 (Act XV of 1877), s. 29 and Art. 145 of the Indian Limitation Act, 1871 (Act IX of 1871) and s. I, cl. 12 of the Indian Limitation Act, 1859 (Act XIV of 1859). Nor was the title of the deity extinguished during the period from 1929 to 1949 by the operation of s. 28 read with Art. 134-B introduced in the Indian Limitation Act, 1908 by the Limitation

(1) C.A. No. 598/63 decided on 11-8-1965 (2) A.I.R. 1960 Patna. 344.

A (Amendment) Act (Act I of 1929). In our opinion, the transfer contemplated by Art. 134-B is an illegal or unauthorised transfer by a previous manager. Article 134-B does not apply to a suit for recovery of a property, where the property has been lawfully transferred by a previous manager, and the transfer remains effective after his death, resignation or removal. The lease of 1851 by the B previous manager was lawful and binding on the temple, and continued of its own force until 1949. Consequently, Art. 134-B has no application to the present suit. The suit is one by a landlord to recover possession from a tenant and is governed by Art. 139. The tenancy was determined in 1949, and the suit being instituted on November 1, 1954 is well within time. The contention that C Peda Narasimhulu and his successors-in-interest acquired title to the suit lands by prescription and the suit is barred by limitation is, therefore, rejected.

The validity of the notice terminating the tenancy is not disputed. The plaintiff is, therefore, entitled to recover the suit lands.

D

In the result, the appeal is allowed, the judgment and decree of the Courts below are set aside. There will be a decree in favour of the trustees of the temple for possession of the properties mentioned in the schedule to the plaint. The trial Court is directed to enquire into the mesne profits and to pass an appropriate decree E for the same in accordance with law. There will be no order as to costs in this Court and in the Courts below.

Appeal allowed.