

**Arakkalakath Koyatto and ors. Vs. Panigalatt Kunhammad**

**LegalCrystal Citation :** [legalcrystal.com/807732](http://legalcrystal.com/807732)

**Court :** Chennai

**Decided On :** Aug-15-1916

**Reported in :** 37Ind.Cas.664

**Judge :** Spencer and ;Krishnan, JJ.

**Appellant :** Arakkalakath Koyatto and ors.

**Respondent :** Panigalatt Kunhammad

**Judgement :**

1. The melkanomdar has redeemed the prior kanom and in so doing has had to pay for improvements made by the kanomdar and he seeks to recover the same from the jenmi.
2. His plea that when the melcharth was executed the jenmi misrepresented that he had carried out the repairs and that there was nothing more than Rs. 600 due to the kanomdar, has been found against. The plaintiff did not seek to avoid his own melkanom in consequence of having had to pay for improvements, and in this view, the lower Courts rightly found that his suit was premature.
3. It is now sought to make a cause of action out of a personal covenant in the kanom deed (Exhibit B) by the jenmi to pay for repairs, the melkanomdar having succeeded to all the rights of the kanomdar, when he redeemed his mortgage under Section 74 of the Transfer of Property Act. But as we read Exhibit B, the jenmi has not undertaken to pay these sums until he pays the mortgage money, and it cannot be contended that he has been called upon to do this yet.
4. It was next sought to base a cause of action on Section 69 of the Indian Contract Act, on the ground that the jenmi was bound by law to make the payment. But the melkanomdar in this case was bound to pay for improvements when he redeemed the kanom and the jenmi was not bound by law to pay for improvements till he himself redeemed the property.
5. The second appeal fail and is dismissed with costs.