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**(1951) 03 MAD CK 0011**  
**In the Madras High Court**  
**Case No : Second Appeal No. 2288 of 1947**

Adapaka Sanyasamma

APPELLANT

Vs

Vimarsa Prakasa Vireswaswami alias Visweswaraswami and  
Another

RESPONDENT

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**Date of Decision :** 27-03-1951

**Acts Referred:**

Limitation Act, 1908 — Article 134A, 134B, 134C

**Citation :** AIR 1952 Mad 171 : (1951) 2 MLJ 391

**Hon'ble Judges :** Raghava Rao, J

**Bench :** Single Bench

**Advocate :** S. Ramamurthy, for the Appellant; Y. Suryanarayana, for the Respondent

**Final Decision :** Dismissed

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## Judgement

Raghava Rao, J.—I have heard an able and interesting argument from Mr. Ramamurthi for the appellant. The question raised is whether or

not the suit is barred by limitation. The trial Court held it was. The lower Appellate Court has held It was not.

2. The suit was by a certain person appointed as trustee of a temple, by the Madras Hindu Religious Endowments Board. If from the date of order

of appointment time is reckoned the suit is obviously in time. It is said for the appellant that the suit is barred because under Article 134 (B) which

is the article that matters there was cessation of trusteeship on the part of one Ramalingaswami, the prior trustee, as early as 1922, which was the

year in which he made his last alienation of the trust properties, that is to say of the temple itself.

3. The terms of the third column of Article 134 (B) of the Indian Limitation Act

are :

Time from which period begins to run. : The death, resignation or removal of the transferor.

The learned Subordinate Judge has observed on the facts of this case, that there is no proof that any of these three events referred to in the third

column of the article occurred at any time more than 12 years before the date of suit.

4. It is contended by Mr. Ramamurthi that when in the earlier plaint of this plaintiff for recovery of possession of other properties he made his

allegations therein, he stated that Ramalingaswami had ceased to be trustee as early as 1922. That may be; but it is not the cessation of trusteeship

generally that matters for purposes of the application of Article 134 (B); it must be cessation by means of the three events referred to in the third

column of the article mentioned above, death resignation or removal. It is contended by Mr. Ramamurthi that when even the temple itself was

actually alienated, quite apart from other properties attached to the institution, it could not reasonably be contended that Ramalingaswami

continued to be trustee thereof. That, in my opinion, is a legal misconception. The person may have alienated wrongfully all properties belonging to

the trust; but that does not mean he has ceased to be trustee. In the case of a person, like the trustee against whom estoppel does not operate, it is

competent to him to seek to recover the properties alienated by himself. Mr. Ramamurthi further contends that the order of the Hindu Religious

Endowments Board shows that they made the order because there was no trustee functioning. That may be, but that does not mean that

Ramalingaswami actually died, or resigned, or was formally removed from the office of trustee at any time more than 12 years prior to the date of

suit. In spite of the allegations in the former plaint and the actual wording of the order of the Hindu Religious Endowments Board, it was competent

to the learned Subordinate Judge to have found, as he has done, that in the absence of proof that any of the three events referred to in the third

column of Article 134 (B) occurred more than 12 years prior to the date of the suit, it should not be treated as barred by time.

5. In these circumstances I have to dismiss this second appeal with costs. (No leave.)