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**(1924) 02 MAD CK 0084**  
**In the Madras High Court**

A.V. Gurwanaha Rama Seshayya

APPELLANT

Vs

Sri Tripurasundara Cotton Press

RESPONDENT

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**Date of Decision :** 14-02-1924

**Acts Referred:**

Limitation Act, 1963 — Article 6

**Citation :** AIR 1924 Mad 721

**Hon'ble Judges :** Wallace, J

**Bench :** Division Bench

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**Judgement**

Wallace, J.—The only question urged in this appeal is one of limitation.

2. The plaintiff had purchased in Court auction some shares which the judgment-debtor held in the second defendant company, and some dividends on those shares which had fallen due before the date of his purchase. The company refused to pay him the dividends, and he has filed a suit for this. His suit was in 1917. One of the dividends namely that for 1912, fell due on 11-4-1913 and the lower Courts have held that the plaintiff's suit was barred as regards this dividend, since he had not sued within three years of the dividend falling due. The plaintiff appeals.

2. The plaintiff relies chiefly on a ruling reported in Ripon Press and Sugar Mills, Ltd. v. Nama Venkat rama Chetty [1918] 42 Mad. 33, which lays down that a suit by a share-holder to recover dividend is covered by Article 1 t 6 of the Indian Limitation Act, that is, a share-holder gets six years within which to sue for payment of dividend which has fallen due. The rejoinder to this contention is that the plaintiff is not a share-holder, since the company has refused to register him as such. The plaintiff appeals to the ruling in Nagabhushanam v. Ramachandra Rao 1923 Mad. 241 but, though that ruling no doubt lays down that a court-auction purchaser, such as he, is entitled to be registered as the owner of the shares purchased, the company still retains full discretion to refuse such registry. The plaintiff then is not a shares-holder and cannot therefore take his stand on the registered contractual relation which in the foundation for any claim to call in

aid Article 116 of the Indian Limitation Act.

3. The plaintiff however, argues that the defendant company holds dividends for share-holders in trust for them, and that, therefore, there is no period of limitation at all: but the case he himself relies on, namely, *Ripon Press Sugar Mills, Ltd. v. Nama Venkatarama Chetty* [1918] 42 Mad. 33 clearly negatives this view.

4. He next claims that the company's accounts will show that the dividends were due and that the company has thus acknowledged its debt to his judgment debtor, but he has not chosen to file these accounts to show in what form they run or in what form the acknowledgment is embodied. The balance sheets, Exs. E-series, were filed for a different purpose, namely to show when the dividends were due, and do not contain any acknowledgment specific enough to save limitation.

5. There is thus no proof of any acknowledgment sufficient to save limitation. The plaintiff's cause of action for the receipt of the dividend arises, in the absence of any acknowledgment, on the date on which it fell due for payment. He cannot add to that any extended period of limitation which is applicable only to persons of a specific class as share-holders to which his judgment debtor belonged. The plaintiff takes his assignment subject to all the laws of limitation. I agree therefore that the decision of the lower Court is correct and dismiss the appeal with costs.