

(1892) 10 MAD CK 0014
In the Madras High Court

Balakrishna

APPELLANT

Vs

The Secretary of State for India

RESPONDENT

Date of Decision : 04-10-1892

Acts Referred:

Citation : (1893) ILR (Mad) 294

Hon'ble Judges : Wilkinson, J; Muttusami Ayyar, J

Bench : Division Bench

Judgement

1. This was a suit brought by the appellant to establish his right to certain yearly remissions and to have it declared that the Government is not entitled to levy full assessment without granting those remissions. They are called tiyagakari remission and varam remission under the orders of the Board of Revenue. The appellant rested his claim on a permanent cowle alleged to have been granted by the Government to his ancestors on the 29th April 1785. He stated further that so long as the amani system prevailed, the Government paid to appellant's family the excess kudivaram at the rates mentioned in the cowle and that, when the system of fixed money assessment was substituted for the amani system, the Government remitted a portion of the money assessment at certain rates till 1878. It was contended for respondent that the Civil Courts had no jurisdiction to entertain a suit relating to the rate and amount of assessment payable to the Government, and that the claim was barred by limitation. The only questions tried in this suit were those of jurisdiction and limitation. The District Munsif determined them both against the appellant, and, on appeal, the District Judge considered it sufficient to decide that the suit was barred. It is urged before us that the right in question is one which recurs every

year and that Article 131, second schedule of the Act of Limitation, is applicable to this case. We do not consider, however, this contention to be

tenable. Article 131 applies only to those suits in which a decree for consequential relief is asked for by virtue of the periodically recurring right,

and in the present case no such relief has been asked, although the remission claimed has been refused from the year 1878. We must, therefore,

hold that Article 120 applies to this suit which was brought to obtain a merely declaratory decree. It was held in *Pacha-muthu v. Chinnappan* ILR

10 Mad. 213, that a suit for declaration of title to land was barred by Article 120, and we observe that even according to Article 131, time begins

to run from the date when the plaintiff is first refused the enjoyment of his periodically recurring right.

2. As the present suit was not brought within six years from the date when plaintiff's right was denied, and as it is for declaration of title, it is

barred.

3. The second appeal is dismissed with costs.