

(1891) 07 MAD CK 0009
In the Madras High Court

Burla Runga Reddi and Another

APPELLANT

Vs

Vidavalur Chenna Reddi and Others

RESPONDENT

Date of Decision : 23-07-1891

Acts Referred:

Citation : (1896) 6 MLJ 501

Judgement

1. We are of opinion that the proper article of the schedule to the Limitation Act to apply to the suit was Article 116. The suit is founded on a settlement of accounts made between plaintiffs and the partners, the plaintiffs seeking to recover the defendants' share of the loss which was the result of the partnership business. The contract of partnership creates an express obligation that the partners should according to the shares pay the loss, and thus the origin of the obligation now in suit was a registered contract. The account stated had reference to the registered contract and did not constitute in itself an independent contract. It was argued that Article 64, the article relating to suits on account stated, should be applied. That would be so, if the partnership contract had not been registered, but that circumstance renders Article 116 applicable, as in the case of the suit against an agent it was held that the general Articles 88 and 99 would not govern the suit, Because the agreement with the agent was registered. Harendra Kishore Singh v. Administrator-General of Bengal ILR (1882) A. 437 It was also held in Vythilinga Pillai v. Thetchanamurthi Pillai ILR (1885) C. 357 that, in a suit for rent founded on a registered agreement, the same Article 116 and not Article 64 should be applied. The intention was to extend the period in favour of suits to enforce an obligation based on registered instruments. We must reverse the decree and remand the

suit. Costs to be provided for in the revised decree.