
(1982) 12 KL CK 0008
In the High Court Of Kerala
Case No : A.S. No. 215 of 1977

C.R. Ramakrishnan

APPELLANT

Vs

Raman and Others

RESPONDENT

Date of Decision : 21-12-1982

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 1 Rule 8, 11
Criminal Procedure Code, 1973 (CrPC) — Section 145
Limitation Act, 1908 — Section 22
Limitation Act, 1963 — Section 21, 21(1)

Citation : (1982) 12 KL CK 0008

Hon'ble Judges : U.L. Bhat, J;Chandrasekhara Menon, J

Bench : Division Bench

Advocate : C.P. Damodaran Nair, M.K. Chandra Mohandas and D. Krishna Prasad, for the Appellant; A.P. Chandrasekharan and N.P. Samuel for Respondent Nos. 1 to 8 and P.S. Biju, for the Respondent

Final Decision : Allowed

Judgement

U.L. Bhat, J.—This appeal is filed by the Plaintiff in O.S. 190 of 1975 on the file of the Subordinate Judge, Trichur against the dismissal of the suit with costs. The suit was originally filed against nine Defendants.

2. Innumerable cultivators are cultivating fields in Pallipuram Alappat Kadum Krishni Padavu in Trichur District. It appears, they formed a Padavu Committee to attend to the major items of work regarding the padavu. The Plaintiff advanced Rs. 17,000 to the committee on four different occasions as per an oral karar whereunder the amount with interest at 12% per cent per annum was agreed to be repaid. Rs. 4,000 was repaid on two different occasions and for the balance amount due the suit was filed, since Ext. A-2 notice sent to the members of the committee was of no avail. Defendants 1 to 9 are the President, Secretary, Treasurer and members of the committee respectively. They are dealing with the properties of the committee and are liable to repay the amounts due. Plaintiff is entitled to recover the amount due from out of the properties of the committee

and if found necessary, from the Defendants and their properties. On the death of the 1st Defendant, Defendants 10 to 12 were impleaded as his legal representatives.

3. Defendants 1 to 9 filed a written statement admitting the transactions set up but contending that the amount as claimed in the plaint was not due but that only a lesser amount was due. They also claimed set off of certain amounts said to be due from the Plaintiff. The committee of which the Defendants are members represent a large number of cultivators and therefore the suit as laid was not maintainable in law. Defendants also claimed benefit under Act 30 of 1975.

4. In view of the contention in the written statement regarding the maintainability of the suit, Plaintiff filed an application under Order I, Rule 8, CPC to continue the suit against the Defendants in their representative capacity, that is, as representing all the cultivators in the padavu and the petition was allowed and necessary publication was effected. The 2nd Defendant filed an additional written statement contending that the suit was not properly framed under Order I, Rule 8, CPC and the suit was barred by limitation.

5. The trial court held that the provisions of Order I, Rule 8, CPC have been complied with, that the amount claimed in the plaint was actually due and that the suit was barred by limitation in so far as the cultivators of the padavu except Defendants 1 to 9 were concerned. The trial court also took the view that therefore a decree cannot be granted in favour of the Plaintiff since Defendants cannot represent all the cultivators and the persons liable to pay to the Plaintiff were the cultivators of the padavu. Accordingly, the suit was dismissed with costs of the Defendants. This decree is challenged in the present appeal.

6. Pending appeal, the first Respondent died and her legal representatives have been brought on record in time. The 6th Respondent died on 12th January 1979 and C.M.P. 15205 of 1982 was filed only on 21st July 1982 to implead his legal representatives. C.M.P. 15206 of 1982 was filed to set aside the abatement and C.M.P. 15207 of 1982 was filed to condone the delay in filing C.M.P. 15206 of 1982. These applications have been dismissed.

7. Learned Counsel for the Respondents raised a preliminary objection to the effect that since the legal representatives of the 6th Respondent have not been impleaded, the appeal has abated not only against the 6th Respondent but as a whole. Learned Counsel for the Appellant would submit that the suit being a representative one, it was unnecessary to implead the legal representatives of a deceased Defendant and the death of such a representative party cannot lead to abatement of the appeal to any extent.

8. Supreme Court considered this question in Charan Singh and Another Vs. Darshan Singh and Others, . That was a case where the Plaintiffs represented innumerable other persons. The suit was dismissed by the trial court and the dismissal was confirmed in first and second appeals. Pending second appeal, one

of the Plaintiffs died and his legal representatives were not impleaded. In Letters Patent Appeal the decree of the trial court and those in appeals were set aside and the suit remanded to the trial court for disposal on merits. In an appeal filed before the Supreme Court by some of the Defendants, it was contended that the second appeal had abated in view of the failure to implead the legal representatives of one of the Plaintiffs. Relying on the decision in *Raja Anand Rao v. Ramdas Daduram* AIR 1921 P.C. 123, the Supreme Court held that since the suit was filed in a representative capacity, on the death of one of the representatives, the suit did not abate. That was because the suit was not prosecuted by individuals in their own interest but as representatives of others. There could be no abatement in such a case. We also notice that various High Courts have taken the same view. Vide *Khuda Baksh and Anr. v. Ahmad and Ors.* AIR 1930 Lah 18, *Venkatakrishna Reddy and Ors. v. Srinivasachariar and Ors.* AIR 1931 Mad. 452, *Jagdam Ram Vs. Asarfi Ram and Others*, , *Raja Brajasunder Deb Vs. Mani Behera and Others*, , *G.F.F. Foulkes and Ors. v. A. S. Suppan Chettiar and Anr.* AIR 1951 Mad. 296 and *Bant Ram and Others Vs. Banta Singh and Others*, p&h 277

9. Learned Counsel for the Respondents, on the other hand, would place reliance on two earlier decisions of the Lahore High Court in AIR 1925 124 (Lahore) and AIR 1926 31a (Lahore) . In AIR 1925 124 (Lahore) the Plaintiffs filed a suit for declaration that they were the sole owners of an estate and the 43 Defendants had no rights therein. The suit was dismissed. Pending appeal, some of the Defendants-Respondents died and the legal representatives were not impleaded. The Appellants had applied under Order I, Rule 8, CPC to the effect that four among the Respondents may represent all other Respondents and the petition had been allowed. Of these four Respondents, one died and his legal representatives had been impleaded. Three other persons who were parties as such in the appeal and were not treated as representatives died. They were on record in their personal capacity. On these facts, the Lahore High Court held that the order passed by the Court under Order I, Rule 8, CPC did not relieve the Appellants from impleading others who were parties in the lower court and who had obtained decree in their favour and if their legal rcpiresentatives died and no steps were taken, the proceedings will abate in toto. In AIR 1926 31a (Lahore) , pending appeal, an application under Order I, Rule 8, CPC to the effect that five among the Respondents might be permitted to defend the appeal on behalf of the other Respondents was allowed. None of the five representative-Respondents died; but some of the other Respondents died and their legal representatives were not brought on record. Following the dictum in AIR 1925 124 (Lahore) the High Court held that the appeal will abate in toto if no steps had been taken to bring the legal representatives on record.

10. The decision in the above two cases may not apply to the facts of the present case. In both the cases, some of the Respondents died and legal representatives were not impleaded. Certain Respondents had been invested with representative capacity by the Court under Order I, Rule 8, CPC The High Court of Lahore held

that while the death of any one of the representative-Respondents would not lead to abatement of the appeal, the death of the non-representative Respondents, that is, those Respondents who were in the party array in their personal capacity would lead to abatement in case their legal representatives were not brought on record.

10A. In the present case, the order passed by the trial court under Order I, Rule 8, CPC invested representative capacity in all the nine Defendants. On the death of one of the Defendants-Respondents who are in the party array in their representative capacity, it would be unnecessary to implead the legal representatives and the question of abatement will not arise.

10B. Learned Counsel for the Respondents pointed out that in the plaint though the main relief claimed was recovery of money against the assets of the committee, alternatively personal decree had been claimed against Defendants 1 to 9. The trial court did not give a personal decree against any of the Defendants. In the memorandum of appeal, there is no prayer for a personal decree against any of those Defendants. Learned Counsel for the Appellant also made it clear that the apprllant does not seek any personal decree against those Defendants. Therefore it cannot be said that the presence of Respondents 1 to 8 (Defendants 2 to 9) in the appeal can be treated as presence in their personal capacity; their presence can be treated only as representing the cultivators.

11. It is further contended by learned Counsel for the Respondents that Defendants 1 to 9 have already obtained a decree for costs at the hands of the trial court and if the legal representatives of the 6th Respondent are not brought on record, there is a possibility of conflict of decree. This submission does not appear to be correct. It is true that the trial court dismissed the suit with costs of the Defendants. It should be remembered that Defendants 1 to 9 were there on the party array in their representative capacity. It must therefore be taken that the decree for costs passed in favour of the Defendants 1 to 9 was a decree for costs in their favour in their representative capacity. We do not think that the legal representatives of any of those Defendants could seek to execute the decree and recover costs. Therefore, there is no possibility of a conflict of decree as suggested by learned Counsel for the Appellant. We therefore hold that on the death of the 6th Respondent, the appeal does not abate.

12. The suit was filed in 1975 against nine Defendants who were office-bearers of the padavu committee. In the written statement, an objection was raised regarding the non-jointer of all the cultivators in the padavu. Thereupon, the Plaintiff-Appellant filed I.A. 1062 of 1977 under Order I, Rule 8, CPC for permission to sue the Defendants as representing all the cultivators of the padavu. The petition was allowed and publication was duly effected on 16th July 1977. Learned Counsel for the contesting Respondents raised a contention that the provisions of Order I, Rule 8, CPC are inapplicable to a suit for debt due on a contract. The argument is that a representative suit cannot lie against a Defendant for such a debt. Learned Counsel for the Respondents placed reliance

on the decision in Rathnaswami Nadar v. Prince of Arcofs Endowments, Trichinopoly AIR 1938 Mad. 755 and Arumugha v. Kuppuswami AIR 1952 Mad. 115.

13. Rathnaswami Nadar's case AIR 1938 Mad. 755, was decided by a Division Bench of the Madras High Court. In that case the Defendants were sued under Order I, Rule 8, CPC as representing the villagers who, it was alleged, denied the title of the Plaintiff to the disputed property and dispossessed the Plaintiff. The reliefs claimed were declaration of title, recovery of possession and mesne profits. The court held that the provisions of Order I Rule 8 CPC are inapplicable to a suit for mesne profits. The court took the view that in case a decree for mesne profits is granted in the suit, any one of the villagers would be held liable for mesne profits in respect of the entire land although under the karaiyidu form of enjoyment no ryot was in occupation of more than a fractional share of the whole land and passing of such a decree would be unjust. In that view no decree could be passed against the villagers since no opportunity had been given to them to defend themselves. The court found support in two English cases, Hardic and Lane Lmt. v. Chiltern 1928(1) K.B. 663 and Walker v. Sur (1914) 2 K.B. 930. In the former case, it was observed that in such a suit all that the court could have done was to pass an order against the Defendants actually on record and such an order could have been executed only against the share of those Defendants in the property and that being so there would be nothing representative about the action. In the latter case, the action was for money and it was observed that the decree passed could not be executed against all the persons represented and that would be an impossible situation.

14. In Arumughan's case, decided by a Single Bench of the Madras High Court, the suit was filed by six members of an unregistered body on behalf of all the members of the body for an account of moneys collected and spent by the first Defendant, and invoking the provisions of Order I Rule 8 Code of Civil Procedure. The suit was dismissed by the trial court on the ground that the Plaintiff could not take advantage of Order I, Rule 8 Code of Civil Procedure. The High Court took the view that on behalf of innumerable persons one or more Plaintiffs can bring a suit for money though such a suit cannot be brought against Defendants as representing innumerable debtors.

15. Learned Counsel for the Appellant relies on certain other decisions. In Sahib Thambi Marakayar v. Hamid Mara-kayar and three Ors. ILR 36 Mad. 414, the question arose whether a personal decree could be passed against persons represented by the Defendant in a representative suit. It was held that the decree will bind the represented persons only in respect to their property which the Defendant on record can in law represent and no personal decree can be passed against those persons, although parties on record co-nominee may be made personally liable. In Harischandra v. A.S. Craig AIR 1942 Bom 136, Plaintiff filed suit against the Railway Employees Mutual Benefit Society for damages for wrongful termination of his services. The Defendants were the President and

Trustee respectively of the society. They were sued as representing themselves and all other members of the society. Chagla, J., as he then was, after referring to the English cases already referred to above and certain other decisions, observed that where the Defendants are sued in a representative capacity all that the Plaintiff is entitled to against them is a declaration of his right as against the class whom the named Defendants represented. The Plaintiff is not entitled to a personal decree against them, but is only entitled to be paid out of the funds or the property and assets belonging to the class and in which all members of the class are interested. In the suit in that case what was asked was a personal decree against the Defendants. The plaint did not suggest that the decree which might be passed should be restricted to the funds of the society in the hands of the Defendants. Therefore, it was held that the suit would not be maintainable.

16. Practically the entire case law was reviewed by a Full Bench of the Madras High Court in *Kodia Goundar and Another Vs. Velandi Goundar and Others*, . In that case, the Plaintiff as representing the ryots of a village filed the suit against the Defendant-as representing the ryots of a hamlet for declaration of the right to irrigate lands on two particular days in a week and for injunction restraining the Defendants from closing particular sluices during those two days. The suit was decreed in appeal. In execution, the decree-holders sought to implead two new persons and prayed for attachment of the property of those persons and to take action against them for contempt for the violation of the decree. They were persons who were not co-nominee parties but were only represented by the co-nominee parties. The court noticed that both under Order I Rule 8 and Section 11, Explanation 6 of the CPC a decree in a representative action is binding on the entire body of persons sought to be represented. But the decree cannot be personally enforced against the persons who are merely represented and who are not co-nominee parties to the suit. That is because the persons who are not parties are only deemed to be parties and will not be parties as such. The court, after referring to the English cases already mentioned above, declined to follow the same both on principle and on equitable grounds. According to the court, once the conditions prescribed in Order I Rule 8 CPC are satisfied, a representative action is maintainable whatever be the nature of the suit. The same principle has been followed by the Madhya Bharat High Court in *Ganga Vishnu v. Nathulal* AIR 1957 mb 173.

17. It appears to be well established that Plaintiffs bringing a representative action as representing others can claim decree for money or on contract or the like. The difference of opinion appears to be in regard to the maintainability of such suits against Defendants as representing others. We do not think, the principles followed by English courts, which do not appear to be consistent with the scheme and pattern of Order I, Rule 8, Code of Civil Procedure, could be followed by courts in India. Order I, Rule 8, CPC does not purport to exclude from its purview any category of suits. If there are numerous persons having the same interest in one suit, with the permission of the court, one or more such persons may sue or be sued or may defend such suit on behalf of and for the

benefit of all the persons so interested. The only other condition is that where permission is given, the court must give notice of the institution of the suit at Plaintiff's expense to all the persons interested either by personal service, or, where, by reason of the number of persons or any other cause, such service is not reasonably practicable, by public advertisement. In such a case, any person on whose behalf or for whose benefit, a suit is instituted, or defended, may apply to the Court to be made a party to such suit. The decree passed in the suit shall be binding on all persons on whose behalf, or for whose benefit, the suit is instituted or defended, as the case may be. We may also notice Explanation VI to Section 11 Code of Civil Procedure. The explanation states that where persons litigate bona fide in respect of a public right or of a private right claimed in common for themselves and others, all persons interested in such right shall be deemed to claim under the persons so litigating. The statutory provisions in force in India appear to be clear and unambiguous. Once the necessary conditions mentioned in Order I, Rule 8, CPC are shown to exist, the court is entitled to give permission and once the necessary formalities are gone through or followed, the action is a representative action and the decision in the action will bind all persons so represented. The statute does not indicate expressly or by implication that the provisions will apply only to a particular category of suits and not to suits for money or for recovery of debts or on contract or on torts. To make a distinction between suits on title, easement or customary right on the one hand and money suits or contractual suits on the other, appears to be artificial and contrary to the purpose which the provision of law is intended to subserve. The purpose in enacting Order I, Rule 8 Criminal Procedure Code is to see that numerous persons are not unnecessarily dragged to court and harassed thereby and at the same time to ensure avoidance of multiplicity of suits. It is designed to save time and expense and to ensure convenient trial. In the face this, to state that the provision will not apply to a particular category of suits would not be consistent or just or equitable. There does not appear to be any reason based on principle or expediency to hold that money suits are beyond the purview of Order I, Rule 8, Code of Civil Procedure.

18. The difficulty envisaged in the English decision as well as in the Indian decisions which followed them are more apparent than real. The complication or difficulty was envisaged on the basis of two premises viz., that if the decree is executable personally against persons represented and who are not parties on record, it will be unjust and inequitable and that if the decree is not so personally executable but is executable only against the Defendants on record, the provision itself would have no purpose. With great respect, we are unable to see any logic in these premises. The device adopted by Order I, Rule 8, CPC introduces only a fiction of law whereby a person not co-nominee party is, deemed, for certain purposes, to be in the position of a party to the suit. He is not actually a party to the suit; at the same time, he gains the advantage and suffers certain disabilities which a party to the suit would experience. The decision would be binding on him though he is not actually a party. Of course, it is open for such person to see to

come on record and raise his own contentions. But even where he does not choose to do so, he is deemed to be a party for certain purposes, that is, the decision would be binding on him. At the same time, it has to be noticed that under Explanation VI to Section 11 CPC he is only assumed to be claiming under the persons actually litigating. While he is deemed to be a party, at the same time, he is not actually a party. Therefore, there is no possibility of enforcing or executing a decree against him personally. Thus, the contingency visualised in Ratnaswami Madams case AIR 1938 Mad. 755 and the English cases that a person who is not co nomine a party will be burdened with the responsibility of suffering more than his due share or obeying the decree which he had no opportunity to shape does not arise. The argument that if the decree is not executed personally against the representatives who are not co-nominee parties, there is no purpose in a representative action also, with great respect, does not appear to be sound, if we bear in mind the purpose for which Order I, Rule 8, CPC has been devised. The avoidance of complications, the avoidance of large number of persons being dragged to the court and harassed and the avoidance of multiplicity of suits saving of time and expense and convenience of trial are the main purposes. These purposes will be fully served by the design adopted by the legislature. It cannot be said, as thought by the English courts, that representative action will be futile since decree can be executed only against the persons on record. Declaratory decrees passed in representative actions would certainly be binding on all such parties interested irrespective of whether they are co-nominee parties or not. If the Plaintiff requires further reliefs personally against any particular persons, it is upto him to file a fresh suit. If he does not require such personal relief, no fresh suit need be filed. It may be that the persons already on record enjoy de facto representative capacity though not de jure representative capacity; it may be that they are in custody of common funds in which numerous persons are interested. There is no reason why a decree for money passed against the Defendants in their representative capacity cannot be enforced against such common funds. This again would highlight the fact that Order I, Rule 8, CPC is purposive and not purposeless. In this view, with respect, we agree with the reasoning of the Full Bench of the Madras High Court in Kodai Goundar and Another Vs. Velandi Goundar and Others, and hold that irrespective of the nature and character of the suit, representative actions can be brought against parties even in regard to claims for money or debt or contractual claims, provided the conditions in Order I, Rule 8, CPC are attracted and the procedure contemplated therein is followed.

18-A. In this case, suit has been dismissed only on the ground of limitation. If it is taken that the suit was filed on the date on which the plaint was originally presented namely 30th June 1975, there is no doubt that the suit would be within time. The contention is that as against the numerous cultivators who are sought to be roped in by the permission granted under Order I, Rule 8, Code of Civil Procedure, the suit must be deemed to have been instituted only on the date on which the court granted permission or when the publication was effected.

The latter date is 16th July 1977. If that be so, according to the trial court, the suit would be barred by limitation. This is on the basis that Section 21 of the Indian Limitation Act, 1963 would be attracted.

19. Sub-section (1) of Section 21 of the Limitation Act states that where after the institution of the suit new Plaintiff or Defendant is substituted" or added, the suit shall, as regards him, be deemed to have been instituted when he was so made a party. The argument is that by virtue of the permission granted by the court under Order I, Rule 8, CPC it must be deemed that innumerable cultivators are added as parties to the suit and therefore the suit must be taken as instituted against them only on that date, in which case it would be barred by limitation. Learned Counsel for the Respondents placed reliance on the decisions reported in *Patayath Parumpayil Sankara Menon Vs. Karumathil Puthumanae Sanku's son Kuttani and Others*, *Nandaramdas v. Sulika Bibi* AIR 1943 Mad. 531, *Hubli Panjarapole and Others Vs. Saraswatevva Bayappa Kala Ghatki*, and *Chathayyan Asari Subramaniam v. Nagalingami* 1963 KLT 939.

20. In *Sankara Menon's* case AIR 1940 Mad. 639, the Plaintiff sued to redeem a *kanam* against the first Defendant in his personal capacity as mortgagee; on the contention of the first Defendant that he was in possession as representing an unincorporated association of which he was a member, the Plaintiff sought for and obtained permission to sue him as representing the members of the association. Wadsworth, J. held that the effect of the amendment or permission was really to implead a considerable number of individuals as party Defendants as contemplated in Section 22 of the Limitation Act, 1908 (in *pari materia* with Section 21 of the Indian Limitation Act) and therefore the suit was barred by limitation. In *Nandaramdas's* case AIR 1943 Mad. 531, the suit was to set aside an order allowing the claim regarding the attached property. The suit was not brought as representing all the creditors and was not so framed. The provisions of Order I, Rule 8, CPC were also not invoked. On the Defendant raising objections to the frame of the suit, the suit was converted into a representative action by which time the suit was barred by limitation. A Division Bench of the Madras High Court overruled the decision in *Patayath Parumpayil Sankara Menon Vs. Karumathil Puthumanae Sanku's son Kuttani and Others*, and held that the amendment by which the suit was converted into a representative action did not involve addition of fresh parties. Only the capacity of the Plaintiff was changed, that is, from his personal capacity to representative capacity and therefore Section 22 of the Limitation Act, 1908 was not attracted and the suit was barred by limitation. In the Bombay case, a different approach was made. It was more or less accepted that conversion of a suit into representative action did not involve addition of new parties but it was held that the suit as originally constituted was a defective suit and that it can be taken that a proper suit was brought only when it was converted into a representative action. On that ground it was held that the suit was barred by limitation.

21. *Krishnamoorthy Iyer, J.*, in *Chathajyan's* case 1963 KLT 939, considered the

decisions in Seth Nandaramdas Atmaram by Agent Hemrajmul Vs. Zulika Bibi and Others, and Hubli Panjarapole and Others Vs. Saraswatevva Bayappa Kala Ghatki, and sought to distinguish the Bombay decision on the ground that the representative character involved in that case related to the Defendant and would not apply to a case where the representative character involved is that of the Plaintiff. That was a case where two Plaintiffs as representing Viswakarma community sought to set aside an order passed u/s 145 of the Criminal Procedure Code for declaration of title and for recovery of the same and for removal of the Defendants from management. Five years later, the suit was converted into a representative action on behalf of all the members of the community. It was observed that it was not a case where the Plaintiffs filed the suit in their individual capacity and attempted to convert the same later on into a representative suit. The suit was filed as a representative suit. Instead of filing a petition under Order I, Rule 8, CPC along with the suit, it was filed after some time and that did not make any difference in regard to limitation. The court followed the decision in Seth Nandaramdas Atmaram by Agent Hemrajmul Vs. Zulika Bibi and Others, .

22. With great respect, we are unable to follow the reasoning adopted by Wadsworth, J. in Patayath Parumpayil Sankara Menon Vs. Karumathil Puthumanae Sanku's son Kuttani and Others, . We have already indicated that the effect of applying the provisions of Order I, Rule 8, CPC is not to add parties to the suit. By invoking these provisions, by fiction of law, it is deemed that innumerable persons are in the position of parties to the suit, though actually they are not parties. Section 21 of the Limitation Act contemplates substitution or addition of new parties after institution of the suit. It cannot be said that by merely invoking Order I, Rule 8, CPC any person is substituted or added as a party. We therefore hold that Section 21 of the Limitation Act is not attracted.

23. We are also unable on the facts of the case to agree that the suit as constituted originally must be treated as a defective suit. This is not a case where the suit was brought originally against the Defendants in their individual capacity and later on sought to be converted into a representative action. Plaintiff avers that Defendants 1 to 9 are office bearers of the Padavu Committee representing the cultivators. The main relief sought for is a decree for money against these Defendants out of the assets and funds of the committee in their hands. There can be no doubt that even initially the action was intended to be representative action. Of course, in law something more was necessary to make it a representative action namely, permission under Order I, Rule 8, CPC Such permission was obtained after some delay. We are therefore unable to agree that the date of institution of the suit so far as innumerable persons are concerned must be taken to be the date on which the permission was obtained or publication was made under Order I, Rule 8, CPC We therefore hold that the suit is not barred by limitation.

24. Learned Counsel for Appellant relied on Section 6 of Kerala Act 30 of 1975

also to contend that the suit is not barred by limitation. We do not purpose to consider this ground since on other grounds we have held that the suit is not barred by limitation.

In the result, a decree is passed in favour of the Appellant-Plaintiff directing Respondents 2 to 5, 7 and 8 to pay, out of the assets and funds of the Pallipuram-Alappat Kadumkrishi Padavu Committee in their hands, the Appellant Rs. 13,442-70 with interest at 12% per cent per annum from date of plaint till payment as also costs of the suit. The appeal is accordingly allowed. In view of the fact that there has been delay on the part of the Plaintiff in taking action under Order I, Rule 8, Code of Civil Procedure, we direct both parties to bear their costs of appeal.