

(1919) 11 BOM CK 0037
In the Bombay High Court
Case No : First Appeal No. 36 of 1917

Ganesh Shesho Deshpande	Vs	APPELLANT
The Secretary of State for India		RESPONDENT

Date of Decision : 10-11-1919

Acts Referred:

Limitation Act, 1908 — Article 14
Maharashtra Revenue Jurisdiction Act, 1876 — Section 11

Citation : (1920) 22 BOMLR 212 : 57 Ind. Cas. 587

Hon'ble Judges : Norman Macleod, J; Heaton, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Norman Macleod, Kt., C.J.—This was a suit filed by the plaintiff for a declaration that the proceedings of the revenue authorities in respect of the forfeiture of his Survey No. 138 at Mahuli, Taluka Khanapur, and in respect of its subsequent disposal, were illegal and ultra vires and not binding on the plaintiff. The suit was dismissed by the learned trial Judge who has discussed the numerous points of law which were raised by the plaintiff, and has given expression to his conclusions in a really very excellent judgment. It does not seem necessary for us to deal with the case at any great length, as we fully concur in everything which has been said by the learned District Judge. The order of forfeiture was made on the 6th of May 1911, and under Article 14 of the Indian Limitation Act the party aggrieved by that order had one year within which to file a suit to set it aside. It is quite true that the party aggrieved need not apply to the Court. He may content himself with the various appeals allowed to the revenue authorities, until he reaches the Governor in Council. But the Limitation Act provides, if he wishes to have resort to the Court in order to get the order of the revenue authorities set aside, that he must put his plaint on file within one year. It has often been argued, that if the party aggrieved is appealing to the revenue authorities, that time should be excluded. Section 11 of the Revenue Jurisdiction Act makes it clear that that argument cannot be sustained. If, therefore, the

plaintiff in this case wished to have a decision of the Court upon the legality or illegality of the order of forfeiture, he was bound to, put his plaint on the file within one year of the date of the order. He has not done so. Therefore it is clear that the suit was barred by limitation. The appeal is dismissed with costs.

Heaton, J.

2. I agree. Whether this is a case of hardship or not it is not for us to decide. I agree with my Lord the Chief Justice that the District Judge has dealt correctly both with the r, matters of law and the matters of fact which came before him. Therefore it suffices for us to say that this is so, for that concludes the case inasmuch as it demonstrates that the plaint was time-barred. If the appellant thinks he has a genuine grievance, his only remedy is to approach Government, and if he does so, he will find from the judgment of the District Judge a very clear statement of the facts of this case, the facts necessary to be presented to the Government.