
(1910) 01 MAD CK 0033
In the Madras High Court

Guruvappa Chetty

APPELLANT

Vs

Srinivasa Row and Others

RESPONDENT

Date of Decision : 11-01-1910

Acts Referred:

Limitation Act, 1963 — Article 11

Citation : 6 Ind. Cas. 680

Hon'ble Judges : Miller, J;Krishnaswamy Aiyar, J

Bench : Division Bench

Judgement

1. It is conceded that the suit is not barred by Section 244 of the Code of 1882. There is no doubt that the order made by the District Judge must be taken to be an order u/s 335 of the Code of 1882; but it is clear that the plaint was presented on the 22nd March 1905 within a year of the date of that order. The suit is not, therefore, barred by limitation on the ground taken by the District Judge: but a plea is now raised that it was barred because the 3rd defendant, the purchaser from the 1st defendant, was added as a party after the period of one year had expired. This question was not before the lower Courts and the plaintiff has not had an opportunity of answering it. We do not now decide whether or not the 3rd defendant, who is not the party in whose favour the order was made, but a purchaser from him, can in any event rely on Article 11 as a bar to the suit. This is a question which at the present stage it is unnecessary to decide; but as the suit has to be remanded for trial from the beginning, we allow the 3rd defendant to raise the question of limitation under Article 11 and Section 22 of the Limitation Act. We reverse the decrees of the Courts below and remand the suit to the Court of first instance for disposal according to law having regard to the above remarks.

2. The costs will abide the result.