
(1912) 01 MAD CK 0028
In the Madras High Court

K. China Veerayya (Died)

APPELLANT

Vs

R. Lakshminarasamma and Others

RESPONDENT

Date of Decision : 16-01-1912

Acts Referred:

Citation : (1914) ILR (Mad) 406

Hon'ble Judges : Sundara Ayyar, J;Benson, J

Bench : Division Bench

Judgement

1. The prayer in the plaint according to its terms is for a declaration that the third defendant is not the illatom son of the first defendant's father-in-law as well as for a declaration that the first defendant's deed of relinquishment in favour of the third defendant and fourth defendant cannot affect the plaintiff's rights as reversioner. The third defendant raised various legal objections to the maintainability of the suit for a declaration that the third defendant was not the illatom son of the first defendant's father-in-law. To overcome these objections the plaintiff contended that his suit was really only one to declare the deed of relinquishment invalid as against his reversionary rights. This contention was upheld and the suit was allowed to go on as one relating" merely to the validity of the relinquishment. We cannot therefore now regard it as one relating to the third defendant's rights as an illatom son. This Court decided in Sakyahani Ingle Rao Sahib v. Bhavani Boyi Sahib ILR (1904) Mad. 588, that a suit by a reversioner for a declaration that a deed of alienation or other instrument executed by a widow will not affect his reversionary rights, abates on the death of the plaintiff and that the cause of action does not survive to the next reversioner. In Muthusami Mudaliyar v. Masilamani ILR (1910) Mad. 342, the

cause of action was held to survive but that was on the ground that the plaintiff in the suit asked for a declaration on behalf of himself and other

reversioners. We are bound, by *Sakyahani Ingle Rao Sahib v. Bhavani Bozi Sahib* (1904) 27 Mad. 588, which was not overruled by *Chiruvolu*

Punnammah v. Chiruvolu Perrazu ILR (1906) Mad. 390. The Privy Council has held in *Umar Khan v. Niaz-ud-din Khan* (1912) 22 M.L.J.

240 that Article 118 of the Limitation Act is not applicable to suits for possession see the judgment of the Privy Council, dated the 14th December

1911, which refers to and explains *Tirbhuwan Bahadur Singh v. Rameshar Bakhsh Singh* (1906) 28 All. 727 The right of the present petitioners,

who wish to prosecute the Second Appeal as legal representatives of the original plaintiff, to recover the. property on the death of the first

defendant will not therefore be affected by their not being admitted as plaintiffs representatives. We must reject their application to be permitted to

continue the appeal. The Second Appeal abates. We make no order as to costs of the Civil Miscellaneous Petition. The respondents will be

entitled to their costs of the Second Appeal out of the estate of the deceased plaintiff.