

(1893) 02 MAD CK 0002
In the Madras High Court

Kothenath Patinhare Vittil Sankaran Alayam Mootha Nair APPELLANT
Vs

Mullakol Gramam Vythee Putter Pattamali's son Krishna RESPONDENT
Putter Pattamali

Date of Decision : 10-02-1893

Acts Referred:

Citation : (1893) 3 MLJ 213

Judgement

1. The only question which it is necessary to consider in this appeal is whether appellant's claim is barred by limitation. He alleged that as the holder of Alayam Mutha Nair's stanom, he was the uralan of the Parakot Bhagavathi devasom, that in 1861-62 his predecessor in the stanom appointed respondent as pattamali (agent) and that respondent was managing the affairs of the temple as his pattamali and was therefore liable to render an account of his management and to be dismissed from his office by appellant. The respondent denied appellant's uraima right and impugned the document of 1861-62 as invalid. He also pleaded inter alia limitation in bar of the claim. The appellant's predecessor in the stanom had instituted Original Suit No. 269 of 1873 against respondent to set aside a demise of devasom property on kanom on the ground that the uraima right was vested in him, that he appointed respondent as pattamali in 1861-62, and that the latter had no authority to grant the kanom. In that suit respondent denied the uraima right set up by appellant's predecessor and repudiated the document of 1861-62 as invalid. In A. S. No. 483 of 1873 which arose from that suit, it was finally decided that the Alayam Mutha Nair was not the uralan of the institution and that the document of 1861-62 was not binding on respondent. As more than twelve years had elapsed when the present suit was brought on 23rd

September 1890, the Subordinate Judge held that it was barred by limitation. Hence this appeal.

2. We think the decision of the Subordinate Judge is correct. Appellant's claim rests on his status as uralan of the temple and on respondent's

relation to him as pattamali or agent under the document of 1861-62 and respondent had repudiated both grounds of claim when they were urged

by appellant's predecessor in the previous suit. The right to sue to establish them accrued therefore in 1874 whilst the present suit was brought

only in September 1890. It is urged by appellant's pleader that Original Suit No. 269 of 1873 was instituted in the court of a District Munsif who

has no jurisdiction to entertain the present suit and that the decision in A. S. No. 483 of 1873 does not render the present claim *res judicata*. This

is true, but time began to run against the claim from the date on which respondent denied the uraima right set up by appellant's predecessor and

respondent's relation to him as pattamali and no suit was brought within twelve years from the date of such denial. Assuming that for the purpose

of dealing with the question of limitation the claim would not be *res judicata* if we were at liberty to enter on the merits, we must still hold that it is

barred by limitation on the ground that the right to sue had accrued more than twelve years before the present suit and during the lifetime of

appellant's predecessor in the stanom. Another contention on appellant's behalf is that, as respondent did not state in the previous suit who was

the uralan of the devasom or that he was himself the uralan, the claim cannot be barred. We are unable to accede to this contention. It is not

necessary that respondent should have either claimed the uraima right or stated in whom it was vested and it is sufficient that he then denied that

appellant's predecessor in the stanom was the uralan or that the relation of uralan and pattamali subsisted between them. It is then argued that

Article 124 of the second schedule of the Act of Limitation could not apply unless respondent stated who the real uralan was. But we do not think

that that Article is applicable, the suit being based on the alleged relation of uralan and pattamali between appellant and respondent. The suit is

clearly barred either by Article 120 or 144 and as more than twelve years had elapsed before suit, it is unnecessary to decide which Article

applies. The present case is similar to the one in *Balwant Rao Bishwant Chandra Char v. Purun Mal Chaube*, L. R 10 I. A 90

3. The appeal must fail and we dismiss it with costs.