

(1908) 12 MAD CK 0021
In the Madras High Court

Madhava Gowdu alias Dama Gowdu

APPELLANT

Vs

Sisinti Lokanatha Patro and Others

RESPONDENT

Date of Decision : 02-12-1908

Acts Referred:

Citation : 2 Ind. Cas. 314

Hon'ble Judges : Pinhey, J; Munro, J

Bench : Division Bench

Judgement

1. The District Judge appears to hold that even if the defendants and their predecessor-in-title had been in adverse possession of the suit lands for 12 years but for less than 60 years before the plaintiff obtained puttah the plaintiff's suit would not be barred. In so holding the District Judge is clearly wrong. The plaintiff's suit not being a suit by or on behalf of the Secretary of State, article 149 of the second schedule of the Limitation Act does not apply-Vide Kuthaaperumal Rajali v. The Secretary of State for India 30 M.k 245 and the cases therein cited. The suit must fall under either article 142 or 144. If the former article applies the plaintiff must prove that he or the Government through whom he claims was in possession within 12 years before suit. If article 144 applies then the suit will be barred unless brought within 12 years, from the date when the possession of the defendants' predecessor in title or of the defendants became adverse, if it really did become adverse.

2. We, therefore, reverse the decree of the District Judge and remand the appeal for disposal according to law. Costs will abide the event.

3. As the question of limitation was not clearly taken in the first Court the parties are at liberty to adduce evidence on the point.