

(1929) 12 MAD CK 0006
In the Madras High Court

Nagari Subbanna

APPELLANT

Vs

Karapakula Naranayya and Others

RESPONDENT

Date of Decision : 10-12-1929

Acts Referred:

Citation : 123 Ind. Cas. 362

Hon'ble Judges : Kumaraswami Sastri, J

Bench : Single Bench

Judgement

Kumaraswami Sastri, J.—I think Article 29 of the Limitation Act is not applicable.

2. The deed of hypothecation does not give the appellant any right to be in possession of the cattle attached. The seizure cannot be said to be

wrongful as all that the appellant is entitled to is to have the sale subject to his hypothecation. Niadar Singh v. Ganga Dei 35 Ind. Cas. 86 : 38 A.

676 : 14 A.L.J. 728 is in point. As pointed out there can only be wrongful seizure when the property was in the possession of the person. It may

be that constructive possession will do. But when there is no right to possession there can be no wrongful seizure. Damaraju Narasimha Rao v.

Thadinada Gangaram 4 M.L.T. 271 : 31 M. 431 : 18 M.L.J. 590 was a case of possession. I set aside the decree of the District Judge and

remand the appeal for disposal on the merits. Costs will abide and follow the result. Court-fees will be refunded.