

(1914) 01 MAD CK 0026
In the Madras High Court

P.C. Manavikrama Zamorin Raja Avergal	APPELLANT
Vs	
R.P. Achutha Menon	RESPONDENT

Date of Decision : 15-01-1914

Acts Referred:

Citation : AIR 1914 Mad 377 : (1915) ILR (Mad) 916 : (1914) 26 MLJ 377

Hon'ble Judges : Arnold White, C.J.;Sankaran Nair, J;Oldfiled, J

Bench : Full Bench

Judgement

Arnold White, C.J.—If this matter had been res integra I should have been disposed to hold that Article 131 should be construed as

applying to a suit brought for the purpose of obtaining an adjudication as to the existence of an alleged periodically recurring right, and not to a suit

in which it was sought to recover moneys alleged to be due by reason of the alleged right. The question of the existence of the right is no doubt

distinct from the question of the right to recover moneys if it is established that the right exists. It is however, difficult to see why the period of

limitation should not in both cases be the same, as it is in the case of a suit for a declaration of a right to maintenance and in a suit for arrears of

maintenance. If the contention of the appellant is well founded there is no article which deals specifically with the period of limitation in the case of a

suit to recover moneys due under an alleged periodically recurring right. There is force in the contention that the use of the word ""establish"" and the

fact that there is only one article in the case of a suit with reference to a periodically recurring right, and not two as in the case, of suits based on an

alleged right to maintenance (see Articles 128 and 129) indicate that the legislature intended to deal with both classes of suits in Article 131. I am

not prepared to dissent from the view indicated in the Madras cases referred to in the order of reference, a view which has also been adopted by

the Bombay High Court. See *Sakharam Hari v. Laxmipriya Tirtha Swami* ILR (1910) B. 349. I would answer the question, which has been

referred to us in the affirmative,

Sankaran Nair, J.

2. The question is not free from doubt. But, I am not prepared to differ from the decisions of this Court and I would therefore answer the question

in the affirmative.

Oldfield, J.

3. I agree with the learned Chief Justice for the reasons stated by him.