
(1920) 08 MAD CK 0009
In the Madras High Court

Polepeddi Venkata Sivayya by Next Friend and Maternal Uncle APPELLANT
Konduri Venkata Krishnayya

Vs

Polepeddi Ademma and Others RESPONDENT

Date of Decision : 02-08-1920

Acts Referred:

Limitation Act, 1908 — Article 118

Citation : AIR 1921 Mad 380 : (1921) ILR (Mad) 218

Hon'ble Judges : John Wallis, C.J; Seshagiri Ayyar, J

Bench : Division Bench

Judgement

1. We think the Subordinate Judge was right in holding that this suit was barred under Article 118 of the Indian Limitation Act, IX of 1908. It is

now settled by the Full Bench decision in Varamma v. Gopaladasayya (1) that a suit for a declaration that an adoption is invalid is a representative

suit which the nearest reversioner is entitled to bring on behalf of the whole body of reversioners, born and unborn, within the period prescribed in

the article.

2. Time begins to run from the time the adoption becomes known to the plaintiff, and here the adoption came to the knowledge of the next

reversioners as soon as it took place in 1902. Time, therefore, began to run against the whole body of reversioners from that date, and the present

suit not having been brought within six years, is barred. It is said that the nearest reversioner did not bring the suit because he had been bribed to

give his consent to the adoption. That might have been a good reason for allowing another reversioner to sue within the prescribed period, if there

had been one able and willing to do so. It did not prevent the next reversioner from suing himself, if so minded, or prevent the whole body of

reversioners being barred if no suit was brought within the prescribed period. The fact that the plaintiff was born after the alleged adoption and

before the suit had become barred under Article 118, did not give him any fresh cause of action or stop time running which had begun to run

against the whole body of reversioners from the date of the adoption. To hold otherwise would be opposed to the express provisions of Section 9.

All that Coutts Trotter, J., as we understand him, intended to lay down in the Fall Bench case, *Varamma v. Gopaladasayya* I.L.R.(1918) Mad.,

659 , was that a decree against the next reversioner obtained by fraud or collusion would not be binding on the other reversioners. These

observations do not support Mr. Narayanamurti's contention that time would not run under the article against the general body of reversioners if

the nearest reversioner abstained from suing from interested motives. The appeal fails and is dismissed with costs.