

(1920) 08 MAD CK 0032
In the Madras High Court

Polepeddi Venkatasivayya, being minor by next friend and
maternal uncle, Konduri Venkata Krishnayya

APPELLANT

Vs

Polepeddi Ademma and Others

RESPONDENT

Date of Decision : 02-08-1920

Acts Referred:

Limitation Act, 1908 — Article 118

Citation : 60 Ind. Cas. 98 : (1920) 12 LW 499 : (1920) 39 MLJ 621

Judgement

1. We think the Subordinate Judge was right in holding that the 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. Gopala Dasayya 35 M.L.J. 57 (F.B.) that a suit for 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. 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.

2. 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 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 Full Bench case in *Varamma v. Gopala Dasayya* 35 M.L.J. 57 (F.B.)679 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. Narayanamurthy'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