

(1918) 01 MAD CK 0014
In the Madras High Court

Sankaralinga Mudaliar and Others

APPELLANT

Vs

Kuthalinga Mudaliar (Dead) and Others

RESPONDENT

Date of Decision : 30-01-1918

Acts Referred:

Citation : 52 Ind. Cas. 637

Hon'ble Judges : William Ayling, J; Seshagiri Aiyar, J

Bench : Division Bench

Judgement

1. We agree with the lower Court that the suit is barred by limitation, although in our opinion the appropriate Article is Article 142, and not Article

131 of the Limitation Act. The suit is in effect for possession of the temple and the value of the temple itself is specifically included in the plaint

valuation of the suit. The judgment in Eshan Chunder Roy v. Monmohini Dassi 2 Ind. Dec. 434, which is relied on by appellants' Vakils, proceeds

on the basis that no interest in Immovable property was involved and Ramanathan Chetty v. Murugappa Chetty 13 M.L.J. 341, Gnanasambanda

Pandara Sannadhi v. Velu Pandaram 2 Bom. L.R. 597 : 27 I.A. 69 and Charapattada Siddalinga Swamulu v. Sondur Ramachandra Charlu 35

Ind. Cas. 646 all support the view that Article 142 is the proper article to apply in the present case.

2. But this makes the case of plaintiffs worse, for under Article 142 the burden of proof must rest on plaintiffs, and on the meagre evidence on

record we have no hesitation whatever in holding that they have not discharged it.

3. The appeal is dismissed with costs as also the memorandum of objection.