

(1935) 10 MAD CK 0090
In the Madras High Court

Shivaram Joi Sha

APPELLANT

Vs

Nagappaya and Others

RESPONDENT

Date of Decision : 21-10-1935

Acts Referred:

Limitation Act, 1963 — Article 131

Citation : AIR 1936 Mad 149 : (1936) 43 LW 431 : (1936) 70 MLJ 220

Hon'ble Judges : Wadsworth, J

Bench : Division Bench

Judgement

Wadsworth, J.—This appeal arises out of a suit brought by the plaintiffs who are incumbents of the pattali office in temple, that is to say, subordinate archakas, suing for tastik allowance. We are now only concerned with the claim for fasli 1333 which accrued due on the 30th June, 1924 and as the suit was filed on the 21st September, 1928 the only question remaining is one of limitation.

2. It is contended by the appellant who is the managing trustee that the suit is barred by reason of Article 102 of the Limitation Act which prescribes a period of three years for a claim for wages not otherwise expressly provided for by this schedule. It is contended on behalf of the plaintiffs that the suit falls under Article 131 of the Limitation Act which prescribes a period of twelve years to establish a periodically recurring right. Now there is not much evidence as to the nature of the allowance which the plaintiffs claim, but by the fact that it is called a tastik allowance. I may infer that it is provided out of funds paid by the Government by way of deduction from the land revenue, and from the fact that the suit is filed against the trustee, one may infer, and it is not in fact disputed that the money is actually paid by the trustee to the plaintiffs. The lower Courts rely on the case of Zamorin of Calicut v. Achutha Menon I.L.R.(1913) 38 Mad. 916 : 26 M.L.J. 377 (F.B.) where it was held that a suit to recover arrears of "adima" allowance fell within the purview of Article 131 of the Limitation Act, although there was no prayer for a declaration and the suit was in form one to recover money due as allowance rather than one to establish a right to that

allowance. It must, however, be pointed out that this "adima" allowance is not one which could in any sense of the term be considered as wages. From Moore's Malabar Law and Custom it appears that the "adima" allowance is a payment made by a person of inferior caste to his superior in consideration for a perpetual lease of land, that is to say, it is more in the nature of a permanent rent than remuneration for services; so that" this case cannot be taken as directly warranting the application of Article 131 of the Limitation Act to a claim for what is, in its essence, wages, but only as authority for the principle that where Article 131 would apply to a suit for a declaration of recurring right it will also apply to a suit for recovery of sums due by reason of that right.

3. We are thrown back on the question whether the right of the plaintiffs to this tastik allowance can be classed as a periodically recurring right and whether it can be excluded from the category of wages to which Article 102 applies. Now it is well established that the relationship of master and servant subsists between the trustee of a temple and the hereditary archaka attached to that temple and that the trustee has a right to dismiss the archaka for misconduct. That was laid down in the case of K. Seshadri Iyengar and Others Vs. Ranga Pattar, which has been followed in subsequent cases.

4. There are also cases which have held that a suit by an archaka against the trustee for the emoluments of his office is a suit for wages coming under Article 102 of the Limitation Act The latest of these cases is that of Vedagiri Sastriar Vs. Jagathguru Sankarachariar Swamigal, in which it was pointed out that these emoluments and perquisites received by the archaka are received by him as a servant of the temple trustees and can be correctly described by the word "wages" used in Article 102 of the Limitation Act. It seems to me manifest that if the particular Article 102 applies the more general Article 131 will be excluded.

5. There is no suggestion that this tastik allowance claimed by the plaintiffs is an allowance which they are entitled to claim from the Government, or, is anything in the nature of a grant merely burdend with service. If the money is in fact payable by the trustee to a temple servant in lieu of wages for services rendered in the temple, it seems to me that the fact that the money out of which these wages are paid came originally from the funds of the Government will not affect the question of limitation. I am therefore constrained to hold that Article 102 of the Limitation Act will apply to the present suit and I allow the appeal and dismiss the plaintiffs' suit so far as it relates to the arrears due for fasli 1333. The parties will pay and receive proportionate costs in the first Court. The appellant will get his costs here and in the lower appellate Court.