

(1903) 01 MAD CK 0009
In the Madras High Court

Srinivasa Ramanujachariar

APPELLANT

Vs

Subbachariar by his Next Friend, Srinivasachariar and
Another

RESPONDENT

Date of Decision : 21-01-1903

Acts Referred:

Limitation Act, 1963 — Article 120

Citation : (1903) 13 MLJ 267

Judgement

1. The plaintiff's right has been established in both the courts below, and that right has not been successfully impugned in this Court.

2. The plea strongly relied on by the appellant is that the declaratory relief as to the Tasdik amount is barred by Article 120 of the Limitation Act,

and that Article 131, relied on by the District Judge, is inapplicable to the case. We accept the contention that Article 120 is applicable, and that

the prayer for a general declaration of the plaintiffs' right to receive annually the Tasdik amount direct from Government is therefore barred

inasmuch as the right to sue for such declaration accrued long before six years prior to the suit. But though the remedy for such relief is barred, the

right to receive the Tasdik as it accrues from year to year is not extinguished, and inasmuch as the plaint also prays for a declaration of the

plaintiff's title to the amount of Rs. 554 in deposit with the Collector on account of arrears for eight years, the plaintiffs are entitled to a declaratory

decree for that portion of the amount which appertains to the six years prior to the suit, viz., Rs. 415-8-0, the cause of action in respect of which

accrued within six years.

3. The decree will, therefore, be modified by striking out the general declaration and substituting Rs. 415-8-0 for Rs. 554-0-0.

4. Though the decree has to be thus modified for technical reasons founded on the law of limitation, the adjudication of the plaintiff's right which

has been made will, of course, be sufficient for Government to act upon even in regard to the relief asked for by the plaintiffs but not granted by

this decree.

5. As the appeal substantially fails, the appellant must pay the respondents costs.