

(1899) 10 MAD CK 0002
In the Madras High Court

Veerabhadra Varaprasada Row

APPELLANT

Vs

Vellanki Venkatadri

RESPONDENT

Date of Decision : 19-10-1899

Acts Referred:

Limitation Act, 1963 — Article 131

Citation : (1900) 10 MLJ 114

Hon'ble Judges : Subrahmania Aiyar, O.C.J.; O'Farrell, J

Bench : Full Bench

Judgement

Subrahmania Aiyar, O.C.J.

1. The right set up by the appellant--the present holder of the hereditary office of karnam in the village of Pinakadimi--that he is entitled to an annual payment as rusum is of course a periodically recurring right falling within Article 131 of the Limitation Act, and as to the difference between the four annas claimed by the appellant and the two annas admitted by the respondent, the right, if it ever existed, must, as taken by the lower appellate Court be held to be barred, the plff's predecessor in office having, according to that Court's finding, which, as a finding of fact, is finding on us, been first refused the enjoyment of the right more than thirty years before the institution of the present suit It is scarcely necessary to say that the fact that the appellant himself succeeded to the office within twelve years before the suit is immaterial,, since, in consequence of the identity of interest which exists in the case of successive office holders of the present description the office-holders for the time being in the absence of fraud or collusion represents his successor so as to make the appellant ,a person deriving his right to sue from or through his prodecessor in office within

the meaning of the interpretation clause relating to plaintiff in Section 3 of the Limitation Act. If authority in support of this view were accessory,

reference may be made to Radhabai & Ramachandra Konher v. Anantrav Baghuant Deshpande I.L.R.(1885) B. 198 where a Full Bench of the

Bombay High Court, after a review of great many authorities, arrived at the conclusion that in cases similar to this a predecessor subject to

exception on the ground of fraud, etc., fully represents his successors in the matter of resjudicata and limitation.

2. The appeal must, however, be allowed to the extent of two annas per kunta to which the claim was, as already stated, admitted and the decree

modified accordingly. The appeal must be dismissed, as to the remaining two annas, the costs here being borne by each party.

O'Farrell, J.

3. I do not dissent.