

(1901) 04 MAD CK 0008
In the Madras High Court

Visvanathan Chetti

APPELLANT

Vs

Ramanathan Chetti and Others

RESPONDENT

Date of Decision : 24-04-1901

Acts Referred:

Limitation Act, 1963 — Section 5

Citation : (1901) ILR (Mad) 646

Hon'ble Judges : Shephard, J;Bhashyam Ayyangar, J

Bench : Division Bench

Judgement

1. It was open to the petitioner, relying on the second paragraph of Section 5 of the Limitation Act, to appeal u/s 540 of the CPC against the

decree as amended, notwithstanding the expiration of one month from the date when the decree was passed. This being so, we are of opinion that

a petition u/s 622 of the CPC complaining of the variance of the decree is not admissible. Mr. Justice Mahmood in discussing the question in

Mania Ray v. Raghunandan Singh ILR 7 All. 282 overlooks the possibility of an appeal against the decree as amended, and for that reason comes

to the conclusion that Section 622 of the CPC must be applied. It must be admitted that Mr. Justice Mahmood's view has been followed in one or

two cases in this Court, but no reported case is cited in which a Bench of Judges has held that an appeal against the amended decree will not lie.

2. We dismiss the petition with costs.