

Sri Raja Inuganti Venkata Rajagopala Rama
Suryaprakasa Rao Garu - - - - - *Appellant*

v.

Maharaja of Pithapuram and another - - - - - *Respondents*

Sri Raja Ravu Sri Krishnaya Rao Bahadur - - - - - *Appellant*

v.

Maharaja of Pithapuram and another - - - - - *Respondents*

Maharaja of Pithapuram - - - - - *Appellant*

v.

Sri Raja Ravu Sri Krishnaya Rao and another - - - - - *Respondents*

(Consolidated Appeals)

FROM

THE HIGH COURT OF JUDICATURE AT MADRAS

JUDGMENT OF THE LORDS OF THE JUDICIAL COMMITTEE OF
THE PRIVY COUNCIL, DELIVERED THE 20TH JANUARY, 1948

Present at the Hearing :

LORD DU PARCQ
LORD NORMAND
SIR MADHAVAN NAIR

[*Delivered by* LORD NORMAND]

These are consolidated appeals from a judgment of the High Court of Judicature at Madras modifying a preliminary and a final decree of the Subordinate Court of Cocanada. The question for determination is whether or to what extent the Indian Limitation Act affects the Plaintiffs' claim against the Maharaja of Pithapuram for payments of sums amounting to Rupees 7,38,000 received by him as rents from the Zamindari estate known as Gollaprolu during the period from 12th January, 1924, to 7th September, 1935.

The facts so far as material to the issue are as follows. In 1923 there was pending a litigation between the Maharaja and the Plaintiffs in the present suit in which the Maharaja claimed that he was the nearest reversioner entitled to succeed to the estate of Gollaprolu. The Maharaja held a decree pronounced in his favour by the District Judge of Rajahmundry but the present Plaintiffs had appealed against it to the Madras High Court. While that appeal was pending the Maharaja on 10th November, 1923, applied to the Collector of Gadavari to be recognized as the landholder of the estate for the purposes of the Madras Estates Land Act subject to the ultimate result of the litigation then pending.

After sundry procedure not germane to the present issue the Collector on 12th January, 1924, made an order under Section 3 (5) of the Madras Estates Land Act by which he recognized the Maharaja as the landholder for the purposes of the Act. The Maharaja accordingly entered into possession of the estate and collected the rents and profits. The litigation pending between him and the present Plaintiffs was protracted and was not finally brought to an end till the Order in Council of 15th July, 1935, the effect of which was to find that the present Plaintiffs were entitled to the estate. On 7th September, 1935, the Collector of Gadavari cancelled his previous order of 12th January, 1924, and recognized the present Plaintiffs as the landholders of the estate.

The Plaintiffs brought the present suit in October, 1935, for recovery of the rents and profits received by the Maharaja during the period of his possession and management of the estate. The Maharaja pleaded that he had been in wrongful possession of the estate during the whole period and that the suit for mesne profits for more than three years from the date when the profits were received was barred by the Indian Limitation Act, Schedule I, Article 109. The Trial Judge held that the Maharaja's possession of the estate under the order of 12th January, 1924, had not been wrongful, and that he had collected the rents and profits as a quasi-trustee for the benefit of the Plaintiffs and was bound to account to them for the rents and profits received in the full period of his possession. By a preliminary decree he directed the Maharaja to render accounts; and after the accounts were taken he granted a final decree on 25th March, 1938. Appeals were preferred to the High Court which, agreeing with the Trial Judge, held that the Maharaja's possession had not been wrongful and consequently that Article 109 of the First Schedule of the Limitation Act did not apply. But, differing from the Trial Judge, the High Court held that a right to sue the Maharajah had accrued to the Plaintiffs each time he had received the rents and profits. Accordingly the High Court disallowed the Plaintiffs' claim to recover rents and profits received more than six years before the commencement of the suit, as being barred by Article 120 of the First Schedule of the Limitation Act. In the argument addressed to their Lordships the Plaintiffs supported the finding of the Trial Judge and the High Court that the Maharaja's possession and his collection of rents and profits had not been wrongful, and therefore that the present suit was not within the terms of Article 109 of the Limitation Act a suit "for the profits of immoveable property belonging to the Plaintiff which have been wrongfully received by the Defendant." They also maintained that no right to sue accrued while the order of 12th January, 1924, was in force, and therefore that the six years limitation provided by Article 120 of the First Schedule of the Limitation Act barred no part of their claim. The Maharaja cross-appealed and relied on Article 109 and the three years limitation therein provided. Alternatively he maintained that the judgment of the High Court should be affirmed.

Their Lordships are of opinion that the decision of these appeals depends on the meaning and effect of the provisions of the Madras Estates Land Act and of the rules made thereunder, which are set out in the judgment of the High Court, and they desire to adopt the comment of the High Court on these provisions. The learned judges say:—"It is manifest that the object underlying these provisions is to provide machinery for the smooth management of an estate pending settlement of disputes relating thereto by a competent Civil Court so as, on the one hand, to enable the rents falling due during the pendency of the disputes to be duly collected without being allowed to get time-barred and, on the other, to enable the tenants to obtain a valid discharge on payment of the rent, whichever party may ultimately succeed in establishing his claim in the Civil Courts. For this purpose, the Collector is empowered to make a summary enquiry under the rules made in that behalf and recognize as landholder the person who is *prima facie* entitled to the present possession of the estate, and the person so recognized is authorised to demand and collect the rent giving a valid discharge therefor. In other words, the person who is 'recognised' by the Collector as 'landholder' for all or

any of the purposes of the Act becomes thereby clothed with full authority to do all acts required to be done for such purpose or purposes, and such acts are made binding upon whichever party is ultimately held by a Civil Court to be entitled to the possession of the estate." Their Lordships agree with the learned Trial Judge and with the High Court that, as the Maharaja had statutory authority for collecting the rents and profits during the whole period of his possession, it is impossible to hold that his receipt of them was wrongful. It follows that Article 109 of the First Schedule of the Limitation Act is inapplicable.

But their Lordships are further of opinion that the Plaintiffs could not competently have sued the Maharaja for an account of rents and profits each time that rents or profits were received. What was said by Counsel for the Maharaja was that the Plaintiffs would have been entitled to sue as beneficiaries under a quasi trust. This is, however, not consistent with the Maharaja's right under Section 3 (5) of the Estates Land Act to receive the rents and profits as statutory landholder. His interest as such landholder was adverse to the claims of the Plaintiffs, and he did not collect the rents and profits as trustee for them. The High Court held that the proviso to Section 67 of the Estates Land Act was in itself sufficient to support the contention that the Plaintiffs might have sued the Maharaja as often as he collected the rents or profits. Section 67 makes the receipt for rents granted by a person recognized as the landholder under Section 3 a valid discharge in the hands of the person paying them. The proviso that nothing in the section shall affect any remedy which a third person may have against the landholder cannot preserve or restore to third parties remedies which are inconsistent with the landholders' rights and powers under Section 3 (5) of the Act. Their Lordships are therefore of opinion that the Plaintiffs had no right of suit for the rents or profits while the possession was under the order of 12th January, 1924. It was only after that order was cancelled in consequence of the decision of this Board that a right of action to recover rents and profits accrued to the Plaintiffs, and that right is preserved to them by the proviso to Section 67. The High Court's judgment recognizes that if suits had been brought each time that rents or profits were received they could have made no progress, but must have been stayed till the final determination of the question of title. In their Lordships' opinion one of the purposes of Section 3 of the Estates Land Act is to regulate possession *pendente lite* and to prevent the multiplication of unnecessary suits. They will therefore humbly advise His Majesty that the appeal should be allowed to the effect that the paragraph numbered 1 of the decree of the High Court dated 11th December, 1941, be deleted. The Defendant in the suit must pay the costs of these consolidated appeals.

In the Privy Council

SRI RAJA INUGANTI VENKATA
RAJAGOPALA RAMA SURYAPRAKASA
RAO GARU

v.

MAHARAJA OF PITHAPURAM
AND ANOTHER

SRI RAJA RAVU SRI KRISHNAYA
RAO BAHADUR

v.

MAHARAJA OF PITHAPURAM
AND ANOTHER

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SRI RAJA RAVU SRI KRISHNAYA RAO
AND ANOTHER

Consolidated Appeals

DELIVERED BY LORD NORMAND