

APPELLATE CIVIL.

*Before Mr. Justice Kernan (Officiating Chief Justice) and
Mr. Justice Hutchins.*

ERAJABI (PLAINTIFF),

and

MAYAN (DEFENDANT.)*

1885.
Sept. 11, 29.

*Village Munsif—Civil Jurisdiction—Limitation of suits—Regulation IV of 1816,
s. 5—Limitation Act, 1877, s. 6.*

Section 5 of Regulation IV of 1816, which prohibits Village Munsifs from trying any suit cognizable by them, unless (*inter alia*) the cause of action has arisen within twelve years previous to the institution of such suit, does not exclude such suits from the operation of the Indian Limitation Act, 1877.

THIS was a case referred to the High Court by W. P. Austin, District Judge of North Malabar.

The facts appear sufficiently for the purpose of this report from the judgment of the Court (Kernan, Officiating C.J., and Hutchins, J.).

Counsel were not instructed.

HUTCHINS, J.—In this case the plaintiff sued before the Village Munsif of Mylanjenmom to recover a sum of money due on a bond. According to the contract, and as stated in the plaint itself, the money accrued due and the cause of action arose on the 14th November 1880.

The time limited for such a suit by art. 66, sch. II of the Limitation Act, is three years from that date, but the plaint was not presented till on or after 17th November 1884. Without noticing that the suit was barred, the Village Munsif took cognizance of it and has passed a decree in the plaintiff's favor.

It is possible that the Village Munsif was under the impression that the Limitation Act of 1877 did not apply to his Court, and that under cl. 2, s. 5 of Regulation IV of 1816, he was only bound to see that the cause of action had arisen within twelve years before suit; but he does not appear to have considered the point. Section 4 of the Limitation Act plainly says that every suit

* Civil Revision Case 158 of 1885.

instituted after the prescribed period shall be dismissed. The language is quite general, and the Act applies to the whole of British India and to all suits instituted therein. It is expressly provided in the Code of Civil Procedure, s. 6, that nothing therein shall affect the jurisdiction or procedure of Village Múnsifs, but no such exception is to be found in the Limitation Act.

It is true that s. 6 of the Limitation Act provides that nothing contained in the Act shall alter or affect a period specially prescribed by any special or local law for any suit, appeal or application, but s. 5, Regulation IV of 1816, can hardly be said to prescribe a period of limitation for any particular suit or class of suits. It simply prohibits a Village Múnsif from taking cognizance of any suit, whatever its nature, unless the cause of action has arisen within twelve years. It would be unreasonable to suppose that, when prescribing different periods of limitation for different suits according to their nature, the Legislature intended to preserve a rule of limitation applicable only to a particular class of tribunals, and which would entirely defeat their object in regard to all suits which might be brought before such tribunals.

We set aside the decree passed by the Village Múnsif, direct him to exercise his jurisdiction and consider the question of limitation, and whether there are any circumstances sufficient under the law to save the claim from limitation.

APPELLATE CIVIL.

Before Mr. Justice Kernan (Officiating Chief Justice), Mr. Justice Hutchins, and Mr. Justice Parker.

KADAR (DEFENDANT NO. 2), APPELLANT,

and

ISMAIL (PLAINTIFF), RESPONDENT.*

1885.
September 9.
October 20.

Registration Act, s. 50—Registered purchaser—Notice of prior contract to sell.

The words "former part of this section" used in the second paragraph of s. 50 of the Registration Act, 1877, refer to the whole preceding portion of the section:

Held, therefore, that a registered purchaser of land, who bought with notice of a prior unregistered contract by his vendor to convey to the plaintiff, could not resist a suit for specific performance on the plea of registration.