

appear to support that view. But it must be noted that the decision in that case was governed by the Limitation Act of 1871, s. 6, of which differs in its wording from the corresponding section (also s. 6) of the present Act.

REFERENCE
UNDER FOREST
ACT V OF
1882.

In the Act of 1871, the concluding words of s. 6 were "nothing herein contained shall affect such law," but in the present Act the words are "nothing herein contained shall affect or alter the period so prescribed."

It was held in *Behari Loll Mookerjee v. Mungolanath Mookerjee*(1) and *Golay Chand Nowluckha v. Krishto Chunder Dass Biswas*(2) that the object of the alteration was to give persons suing the benefit of the rules contained in the present Act for computing the period within which the suit must be brought, and in *Nijabutoolla v. Wazir Ali*,(3) the Judges went further and held that the provisions of s. 5 were generally applicable to all suits and appeals notwithstanding anything contained in s. 6.

We think that the Collector is at liberty to excuse the delay under the second paragraph of s. 5. To do so does not alter the period prescribed by any special law, but is merely the exercise of a discretion which is not expressly prohibited and which is generally applicable.

APPELLATE CIVIL.

Before Mr. Justice Muttusami Ayyar and Mr. Justice Parker.

MUTTIRULANDI AND OTHERS (DEFENDANTS), APPELLANTS,

and

KOTTAYAN (PLAINTIFF), RESPONDENT.*

1887.
Feb. 11, 28.

Civil Procedure Code, s. 57—Plaint presented in a wrong Court.

In all cases where no option as to the selection of the Court is allowed by law to the plaintiff, a plaint presented in a wrong Court must be returned for presentation in the proper Court.

APPEAL from the decree of A. J. Mangalam Pillai, Subordinate Judge of Madura (West), affirming the decree of P. S. Guru-

(1) I.L.R., 5 Cal., 110.

(2) I.L.R., 5 Cal., 314.

(3) I.L.R., 8 Cal., 910.

* Second Appeal 743 of 1886.

MUTTU-
BULANDE
v.
KOTTAYAN.

múrthi Ayyar, District Múnsif of Tirumangalam, in suit No. 673 of 1884.

This suit was brought to recover a certain mányam, situated within the limits of a zamindári village. Both the lower Courts decreed for the plaintiff.

The defendants appealed to the High Court on the following grounds:—

1. Regulation VI of 1831 precludes Courts of Civil Jurisdiction from taking cognizance of suits for this nature.
2. The Subordinate Judge is wrong in holding that Regulation VI of 1831 does not apply to a zamindári village, but only to áyan villages.

Bhášhyam Ayyangár for appellant.

Subramanya Ayyar for respondents.

The arguments employed in this second appeal appear sufficiently for the purpose of this report from the judgment of the Court (Muttusámi Ayyar and Parker, JJ.)

JUDGMENT.—It is admitted in second appeal that the Courts below had no jurisdiction, and that the suit should have been brought under Regulation VI of 1831. The only point argued was whether the plaint having been presented in a Court of Civil Jurisdiction can be returned under s. 57 of the Code of Civil Procedure for presentation in a Revenue Court.

We are of opinion that the wording of the section is imperative, and that in all cases where, as here, no option as to the selection of the Court is allowed by law, the plaint must be returned for presentation in the proper Court; *Prabhákarbhat v. Vishwámabhár Pandit*(1) and *Bhadeshwar Chowdhry v. Gaurikant Nath*.(2)

The decrees of the lower Courts must be reversed and the plaint returned to the plaintiff. The plaintiff must bear defendants' costs throughout.

(1) I.L.R., 8 Bom., 313.

(2) I.L.R., 8 Cal., 834.