

VÁSUDEVAN
v.
THE SECRETARY OF
STATE FOR
INDIA.

to jenm lands of Malabar, or the property of Nambúdiri Brahmans even in the absence of legal heirs, it is on its face frivolous.

But for the other reasons mentioned above we are of opinion that the appeal must be allowed and the suit dismissed with costs throughout.

We order accordingly.

APPELLATE CIVIL.

Before Mr. Justice Muttusámi Ayyar and Mr. Justice Parker.

SHRAJUDIN AND OTHERS (APPELLANTS), PETITIONERS,

and

KRISHNA AND ANOTHER (RESPONDENTS), RESPONDENTS.*

1887.
August 10.

Civil Procedure Code, s. 549—No extension of period for finding security for costs of appeal after default.

Section 549 of the Code of Civil Procedure being imperative, the time cannot be extended after the expiry of the period fixed in the order directing the appellant to find security for the costs of an appeal.

Haidri Bai v. East Indian Railway Company, I.L.R., 1 All., 687, followed.

APPLICATION by the appellants in appeal No. 101 of 1886 on the file of the High Court for an extension of the time fixed by an order of the Court within which they were bound to give security for costs.

The appellants alleged that they had been ordered to find security by the 12th July 1887 for the costs of the appeal: that on 2nd July they lodged security in the lower court and the Judge passed an order stating that the security was insufficient: that they, believing the security was sufficient, were not prepared to furnish fresh security on the same day and that the Judge refused to allow them to furnish security after the 12th.

Srinivasa Rau for petitioners.

Anantan Nayar for respondents.

The Court (Muttusámi Ayyar and Parker, JJ.) delivered the following

* Civil Miscellaneous Petition No. 411 of 1887.

JUDGMENT:—The Subordinate Judge's Court reopened on the 21st June last and the appellants tendered security on the 2nd July. The application for its acceptance was posted to the 12th July, when the appellants did not appear either in person or by pleader. The Subordinate Judge was not satisfied with the security tendered and rejected it. It is alleged that a representation was made that sufficient security would be given, but it is not stated when and by whom. We are not satisfied that the petitioners did what they were bound to do, viz., to attend the court on the day on which the sufficiency of the security was inquired into either in person or by pleader. Nor did they tender other security at once. We have no power to extend the time granted after the expiration of the period mentioned in the original order. Section 549 is imperative. See *Haidri Bai v. East Indian Railway Company*(1).

SHRAJUDIN
v.
KRISHNA.

We dismiss this petition with costs.

APPELLATE CIVIL.

Before Mr. Justice Kernan and Mr. Justice Parker.

MADHAVAN (PLAINTIFF), APPELLANT,

and

KESHAVAN AND OTHERS (DEFENDANTS), RESPONDENTS.*

1887.
August 30.
Sept. 30.

Civil Procedure Code, s. 13, expl. V.

Where the uraima right over a certain devasam was vested in five trustees representing different illams, and a suit was brought by one of the trustees to recover certain property alleged to have been illegally alienated by three other trustees to a stranger and dismissed:

Held, that the decree in such suit was a bar to a second suit brought for the same purpose by the fifth trustee, who had not been a party to the former suit, on the ground that he must be deemed to claim under the plaintiffs in the former suit within the meaning of s. 13, expl. v, of the Code of Civil Procedure.

APPEAL from the decree of W. P. Austin, District Judge of North Malabar, confirming the decree of D. D'Cruz, District Munsif of Chavacherry, in suit No. 199 of 1883.

The plaintiff, one of five uralars or trustees of a devasam, sued

(1) I.L.R., 1 All., 687.

* Second Appeal No. 710 of 1886.