

knocked down was a "sum ascertained" for which he could have offered to take the property, instead of waiting for nearly a year without even making the offer.

AMMOTTI  
HAJI  
v.  
KUNHAYEN  
KUTTI.

No doubt the Limitation Act gives a period of one year for the purpose of *instituting a suit to enforce* a right of pre-emption, but the question before us is not whether the suit is in time, but whether, by his conduct, the appellant waived his right. Both the Lower Courts have found that he did, and I agree with them.

I therefore agrée in dismissing this second appeal with costs.

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## APPELLATE CIVIL.

*Before Mr. Justice Subramanya Ayyar and Mr. Justice Best.*

UKKANDAN (PLAINTIFF), APPELLANT,

1892.  
February 12.

v.

KUNHUNNI AND OTHERS (DEFENDANTS), RESPONDENTS.\*

*Malabar law—Karnavan, disqualification for office of—Blindness.*

A blind man sued, as the karnavan of a Malabar tarwad, to recover certain land. One of the defendants, who claimed but was not admitted to be a member of the tarwad, and who asserted a right as kanomdar to the land in question, pleaded that the plaintiff was not competent to act as karnavan, or consequently to maintain the suit by reason of his blindness :

*Held*, that the defendant was not entitled to raise this plea.

SECOND APPEAL against the decree of J. P. Fiddian, Acting District Judge of North Malabar, in appeal suit No. 303 of 1890, affirming the decree of V. Kelu Eradi, District Munsif of Pynad, in original suit No 82 of 1890.

The facts of the case are stated above sufficiently for the purposes of this report. The Lower Courts dismissed the suit, holding that the plea of the defendant, above referred to, should prevail.

The plaintiff preferred this second appeal.

*Ryru Nambiar* for appellant.

*Sankara Menon* for respondents.

JUDGMENT.—The decision in *Kanavan v. Kunjan*(1) goes no farther than that a blind man is not a fit person to be karnavan

\* Second Appeal No. 644 of 1891.

(1) I.L.R., 12 Mad., 307.

UKKANDAN  
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of a tarwad against the wishes of the other members of the tarwad. The reason given is that the ruin of the tarwad would be the likely result. It is therefore for the members of the tarwad to object to such a man being their karnavan and not for strangers. Defendant No. 2, who has raised the objection in the present case, no doubt, claims to be a member of the tarwad, but this claim of his is denied by the plaintiff; and other members of the tarwad have put in a petition, recognising plaintiff as their karnavan, and asking that the suit may be proceeded with in his name. If defendants desire, these petitioners might also be included as plaintiffs in this suit. The mere fact of plaintiff's blindness does not appear to be a valid ground for dismissal of the suit. The decrees of both the Lower Courts are, therefore, set aside and the suit remanded for replacement on the file of the District Munsif and disposal according to law.

Plaintiff's costs in the Lower Appellate Court, and in this Court, must be paid by second and third defendants. The rest of the costs incurred hitherto will follow and abide the result.

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## APPELLATE CIVIL.

*Before Sir Arthur J. H. Collins, Kt., Chief Justice, and  
Mr. Justice Handley.*

AYYAPPA (DEFENDANT'S REPRESENTATIVE), APPELLANT,

v.

VENKATAKRISHNAMARAZU (PLAINTIFF), RESPONDENT.\*

*Rent Recovery Act (Madras)—Act VIII of 1865, s. 3—Registered zamindar—Zamindari held in coparcenary.*

A registered holder of a zamindari sued under the Rent Recovery Act to enforce the acceptance of a patta and execution of a muchalka by the defendant, a tenant on the estate. It was pleaded, in defence, that the zamindari was the undivided property of the plaintiff and his coparceners in whose name a patta and muchalka had already been exchanged :

*Held*, that the plaintiff, as being the registered zamindar, was entitled to maintain the suit alone.

SECOND APPEAL against the decree of H. T. Ross, District Judge of Godavari, in appeal suit No. 429 of 1880, reversing the decision

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\* Second Appeal No. 1079 of 1891.

1892.  
April 25.  
May 4.