

## APPELLATE CIVIL.

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

ANDERSON (PETITIONER),

*v.*

PERIASAMI (RESPONDENT).\*

1891.  
September 21.

*Civil Procedure Code, s. 598—Application for certificate for appeal to Privy Council—  
Limitation Act—Act XV of 1877, s. 12, sched. II, art. 177.*

In computing the period of limitation for an application for a certificate admitting an appeal to Her Majesty in Council, the time occupied in obtaining copies of the decree and judgment sought to be appealed against cannot be excluded.

PETITION under section 598 of Act XIV of 1882 praying for the grant of a certificate to enable the petitioner to appeal to Her Majesty in Council against the decree of this Court in appeal No. 5 of 1889.

*Biligiri Ayyangar* for petitioner.

*Bhashyam Ayyangar* for respondent.

JUDGMENT.—This application for the admission of an appeal to Her Majesty in Council is put in 92 days out of time, and the time taken by the petitioner in obtaining copies of the decree and judgment cannot be excluded.

An application of this nature under article 177 of the Limitation Act does not fall within the provisions of section 12, Act XV of 1877.

We agree with the view taken by Stuart, C. J., in *Jawahir Lal v. Narain Das*(1), and the same view was taken by this Court in civil miscellaneous appeal No. 254 of 1886.

We may also observe that section 599 of the Code of Civil Procedure has been repealed by Act VII of 1888. We cannot see that the argument based upon the alleged harshness of the law has any foundation. The period of six months, which is allowed by law, seems ample, and in this case the petitioner was actually in possession of copies of the decree and judgment on August 26th, so that he had ample time before November 6th to

\* Civil Miscellaneous Petition No. 540 of 1891.

(1) I.L.R., 1 All., 644.

ANDERSON v. PERIASAMI. prepare a memorandum of grounds of appeal and make an application to this Court under section 600. We are, therefore, constrained to dismiss this application with costs.

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## APPELLATE CIVIL.

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

MANAVIKRAMAN (APPELLANT), APPELLANT,

*v.*

UNNIAPPAN AND OTHERS (RESPONDENTS), RESPONDENTS.\*

*Transfer of Property Act—Act IV of 1882, ss. 92, 93—Appeal against a decree for redemption—Time fixed for redemption.*

A mortgagor obtained a decree for redemption of his mortgage "within six months from the date of this decree." The mortgagee appealed, but the Appellate Court confirmed the decree. The mortgagor sought to redeem within six months from the date of the appellate decree:

*Held*, the Court to which the application of the mortgagor was made should, before passing orders on the application, have given the plaintiff time to apply to the District Court to amend the decree under Transfer of Property Act, s. 92.

APPEAL under Letters Patent, section 15, against the judgment of SHEPARD, J., on appeal against order No. 20 of 1889, which was preferred against the order of L. Moore, District Judge of South Malabar, in civil miscellaneous appeal No. 124 of 1889, reversing the order of K. Ramanadha Ayyar, Acting District Munsif of Nedumganad, in civil miscellaneous petitions Nos. 337 and 341 of 1889.

On 9th December 1887 a decree was passed for the redemption of a mortgage within six months from that date. An appeal was preferred against that decree, but it was confirmed on 29th September 1888. The mortgagor deposited in Court the amount due on the mortgage within six months from the date of the decree of the Appellate Court. The mortgagee objected that the equity of redemption had been lost by the efflux of time.

The District Munsif held that the mortgagor was still entitled to redeem. On appeal the District Judge reversed this decision.

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\* Letters Patent Appeal No. 30 of 1890.