

FISCHER
v.
TURNER,
COLLECTOR OF
MADURA AND
AGENT TO THE
SECRETARY
OF STATE FOR
INDIA IN
COUNCIL.

“ remarked as follows :— ‘ The suit is of a nature cognizable in a
“ Court of Small Causes, although the District Munsif acting
“ under section 23 of Act IX of 1887 very rightly directed that
“ the plaint should be presented to a Court having jurisdiction to
“ determine a question of title which arose in the suit.’ I am of
“ opinion that, in the face of the above ruling, the Subordinate
“ Judge’s order holding that the present suit is not cognizable on
“ the small cause side is erroneous and should be set aside, and
“ the plaint ordered to be received on the small cause side of the
“ Subordinate Court.

“ It should be stated that this reference is made at the instance
“ of the plaintiff and is rendered necessary by the circumstance
“ that the District Munsif of Madura rejected the plaint when
“ presented on the regular side, being of opinion that the suit was
“ cognizable as a small cause suit.”

Counsel were not instructed.

JUDGMENT.—The suit is cognizable by a Small Cause Court.

APPELLATE CRIMINAL.

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

QUEEN-EMPRESS

v.

KRISHTNAYYAN.*

Forest Act—Act V of 1882 (Madras), s. 21 (d) — Grazing cattle in a forest reserve.

The owner of cattle found grazing in a forest reserve cannot be convicted under Madras Forest Act, s. 21 (d), in the absence of evidence that he either pastured the cattle or permitted them to trespass in the reserve.

CASE reported for the orders of the High Court under Criminal Procedure Code, s. 438, by W. J. Tate, Acting District Magistrate of Coimbatore.

Counsel were not instructed.

JUDGMENT.—To sustain a conviction under section 21 (d) of the Forest Act there must be some evidence either that defendant

* Criminal Revision Case No. 398 of 1891.

pastured the cattle or permitted them to trespass in the reserved forest. In the present case all that the prosecution proved was that defendant's cattle were found in a reserve. Such cattle may be impounded, but the owner cannot be held liable unless some overt act of his be proved. We set aside the conviction and sentence and direct that fine be repaid.

QUEEN-
EMPERESS
v.
KRISHN-
NAYAN.

APPELLATE CIVIL.

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

SUBBAKKA (DEFENDANT), APPELLANT,

v.

MARUPPAKKALA AND ANOTHER (PLAINTIFFS), RESPONDENTS.*

1891.
October 29.

Limitation Act—Act XV of 1877, sched. II, arts. 49, 116—Suit to recover title-deeds left with a mortgagee after redemption—Demand and refusal.

After the redemption of a mortgage, the title-deeds of the mortgage premises were left with the mortgagee, who refused to return them on demand made by the mortgagor. The mortgagor now sued to recover possession of them:

Held, that Limitation Act, sched. II, art. 49, was applicable to the case, and that time began to run from the date of the mortgagee's refusal.

CASE referred for the orders of the High Court under Civil Procedure Code, s. 617, by W. J. Tate, District Judge of South Canara.

The case was stated as follows:—

“The suit was brought for the possession of certain title-deeds. Two mortgages, one for Rs. 3,300 and one for Rs. 1,200, were executed by relations to the defendant's mother. Defendant sued one Ganapa (the surviving descendant of the mortgagors, and a minor), thereon in original suit No. 14 of 1883 on the file of the Subordinate Court. With Ganapa (first defendant) was joined his mother Gauramma (defendant No. 2) and another. Defendant obtained a decree for the whole mortgage money, and a direction that the mortgaged (hypothecated) property be sold after two months. In order to raise the money and so save

* Referred Case No. 20 of 1891.