

APPELLATE CIVIL.

Before Mr. Justice Subramania Ayyar and Mr. Justice Benson.

VENKATARAMAYYA AND ANOTHER (PLAINTIFFS), APPELLANTS,

1897.
March 29.

v.

VENKATALAKSHMAMMA (DEFENDANT), RESPONDENT.*

Limitation Act—Act XV of 1877, sched. II, art. 141—Suit by reversioner on the death of female heir—Adverse possession—Hindu law—Law of succession.

A Hindu died in 1880, leaving him surviving (1) a daughter who died in 1886, who was the grandmother of one of the plaintiffs, and (2) the son of a predeceased daughter who was another plaintiff, and (3) the widow of a predeceased son who was the defendant. The plaintiffs now sued in 1893 to recover possession of his land, of which the defendant had been in possession since his death :

Held, that the suit was not barred by limitation and that the plaintiffs were entitled to a decree.

SECOND APPEAL against the decree of W. G. Underwood, District Judge of Cuddapah, in Appeal Suit No. 20 of 1895, reversing the decree of P. Sambayya, District Munsif of Madanapalle, in Original Suit No. 613 of 1893.

Suit to recover land, formerly the property of Appajappa, who died in 1880, leaving him surviving (1) Subbammal, his daughter, who died in 1886, leaving her son Subbarayudu since deceased, the father of the second plaintiff, and (2) Venkataramayya, the first plaintiff, his grandson, being the son of a daughter who predeceased him, and (3) Venkatalakshamma, the defendant, his daughter-in-law, being the widow of his son who predeceased him. The defendant entered into possession on the death of Appajappa and she now pleaded that the suit was barred by limitation.

The District Munsif overruled this plea and held that the plaintiffs were entitled to recover and he passed a decree accordingly.

The District Judge reversed his decree on appeal on the ground that the suit was barred by limitation.

Plaintiffs preferred this second appeal.

Ramachandra Rau Saheb for appellants.

Mahadeva Ayyar and *Ramachandra Rau* for respondents.

JUDGMENT.—The District Judge while stating the law correctly has failed to properly apply it.

* Second Appeal No. 275 of 1896.

VENKATA-
RAMAYYA
v.
VENKATA-
LAKSHMAMMA.

The last male owner died in 1880, and the defendant at once took possession of the property. The last male owner's daughter, who was the party entitled to possession, died in 1886. The present suit by the reversioners to recover possession was filed in 1893. Under article 141, schedule 2 of the Indian Limitation Act (XV of 1877), the reversioners had 12 years from the date of the daughter's death and their suit was therefore clearly in time (*Srinath Kur v. Prosumo Kumar Ghose*(1), *Sham Lal Mitra v. Amarendro Nath Bose*(2), *Cursandas Gobindji v. Vundravandas Purshotam*(3), *Mukta v. Dada*(4), *Tai v. Ladu*(5), *Ram Kali v. Kedar Nath*(6)). The respondent relies on the Privy Council case reported as *Lachhan Kunwar v. Manorath Ram*(7). If that case was a decision with reference to article 141, schedule 2 of the present Act (XV of 1877), or the corresponding article of Act IX of 1871, it would be in point, but there is nothing to show that it is so, and the dates in the recital of facts lead us to the conclusion that the rights of the reversioners in that suit had become barred under Act XIV of 1859 before the provisions of Act IX of 1871 came into force.

We must, therefore, reverse the decree of the District Judge and restore the decree of the District Munsif. The appellants must have their costs in this and in the Lower Appellate Court.

APPELLATE CIVIL.

Before Mr. Justice Subramania Ayyar and Mr. Justice Benson.

SUBBARAYAR AND OTHERS (PLAINTIFFS NOS. 1, 2, 3 AND 5),
APPELLANTS,

v.

ASIRVATHA UPADESAYYAR AND ANOTHER (DEFENDANTS
NOS. 1 AND 2), RESPONDENTS.*

Revenue Recovery Act—Act II of 1864 (Madras), s. 38—Sale for arrears of revenue—Benami-purchase.

The purchaser at a sale held for arrears of revenue sued for possession of the land. It was pleaded that his purchase was made *benami* for the persons from whom the defendant derived title :

- (1) I.L.R., 9 Calc., 934. (2) I.L.R., 23 Calc., 460. (3) I.L.R., 14 Bom., 482.
(4) I.L.R., 18 Bom., 216. (5) I.L.R., 20 Bom., 801. (6) I.L.R., 14 All., 156.
(7) I.L.R., 22 Calc., 445. Second Appeal No. 278 of 1896.