that the application was made within sixty days, though the report does not expressly state this. In the case of *Rama Ayyan* v. *Sreenivasa Pattar*(1), the person relying on the adjustment was not entitled to make any application under section 258, Civil Procedure Code, within sixty days from the date of the adjustment, as against the person who denied the payment, inasmuch as the latter was not then an assignee. That decision cannot be taken to justify an enquiry into an alleged adjustment after the expiry of sixty days from the time when a party relying on the adjustment had become entitled to apply for the adjustment to be recorded. We must, therefore, dismiss the petition with costs.

PERIATAMBI UDAYAN v. VELLAYA GOUNDAN.

APPELLATE CIVIL.

Before Mr. Justice Davies and Mr. Justice Boddam.

ACHUTAN NAYAR (DEFENDANT No. 30), APPELLANT,

1897. February 22.

v.

NARASIMHAM PATTER (PLAINTIFF No. 2), RESPONDENT.*

Malabar Compensation for Tenants' Improvements Act (Madras)—Act I of 1887 *—Timber trees.*

In a suit to redeem a kanom of land on which timber has grown, the jenmi is not entitled to be credited with half the value of the timber.

SECOND APPEAL against the decree of A. Venkataramana Poi, Subordinate Judge of South Malabar, in Appeal Suit No. 93 of 1894, confirming the decree of V. Rama Sastri, District Munsif of Temelprom, in Original Suit No. 27 of 1891.

Suit to redeem a kanom. The main question related to the amount of compensation payable by the plaintiff in respect of timber trees. The District Munsif said as to this point:—"The "last item of improvements to be considered forms the trees. "The fruit-bearing trees are few, but there are many teak and "other trees of valuable timber. The question how far the "tenants are to be considered as the makers of this class of "improvement is not free from difficulty. The demise of 1017

(1) I.L.R., 19 Mad., 230.

* Second Appeal No. 1603 of 1895.

ACHUTAN NAYAR v. NARASIMHAM PATTER.

"(1841–42) recites 'the karimpana and other trees standing on "'these paddy lands and parambas' as part of the property "demised, and indicates them to be the jenmi's property. It is "probable that the kanom of 1,000 fanams under the earlier demise "of 986 (1810–11) was raised to 800 paras and 3,031 fanams in "1017 (1841–42) partly for compensation for some of the im- "provements, but there is no evidence on this point. Whatever "might be the cause of showing a larger kanom in the demise of "1017 (1841–42), the safest rule to adopt would be to accept as "jenmi's property whatever is included in the demise as his, unless "and until the contrary be established by clear and unmistakeable "evidence. If the earlier demise be silent as to the trees, it would "not necessarily follow against the express recital in exhibit IX "that the trees must have been the tenant's property . . . "In examining the several items of trees in the third Commis- "sioner's accounts I find, however, only a few of them 60 years "and above, all the rest being below 60 years apparently grown "subsequent to the year 1017 (1841–42). Those of 60 years and "above may be presumed to be the jenmi's property for which "no compensation is needed . . . . I adopt the latter "valuation. But as ruled by the High Court in *Govinda Menon* v. "*Damodaran Nambudripad*(1) in the case of timber trees, one half "of their value is to be deducted in favour of the jenmi." The District Munsif awarded accordingly as compensation only Rs. 747-10-9 being half the value of the trees; and the Subordinate Judge upheld this award.

Defendant No. 30 preferred this second appeal.

Ryru Nambiar for appellant.

Sundara Ayyar for respondent.

JUDGMENT.—The value of such of the thirtieth defendant's improvements as consisted of timber trees, &c., was found to be Rs. 1,505-8-6. The Munsif disallowed about half of this amount as the landlord's share, on the authority of an unreported decision of this Court (*Govinda Menon* v. *Damodaran Nambudripad*(1)). We do not find in that decision any such authority as is supposed, nor is there anything in the Malabar Compensation for Tenants' Improvements Act I of 1887 authorizing the distribution of any share of any improvement to the landlord. The point that the one

(1) Second Appeal No. 194 of 1889 (unreported).

VOL. XXI.] MADRAS SERIES.

half deduction that had been made in the total amount above referred to was wrong was taken in the appeal grounds to the Lower Appellate Court, but the objection was overruled by the Subordinate Judge without his noticing the true ground on which it was made. We are of opinion that the disallowance of half the amount found due for the improvements proceeded on an erroneous view of the law, and that there is nothing to justify it. We must, therefore, so far, allow this appeal as to direct that the sum of Rs. 757-13-9 disallowed by the Lower Courts be added to the amount decreed to the thirtieth defendant for kanom and improvements. We are not prepared to rule that the data on which the value of the reclamation improvements was calculated were wrong in principle, and we dismiss this ground of appeal. The parties will bear their own costs in this and the Lower Appellate Court. Time for redemption is extended for three months from this date.

APPELLATE CIVIL.

Before Mr. Justice Subramania Ayyar and Mr. Justice Davies.

VENKATAGIRI RAJAH (PLAINTIFF)

v.

RAMASAMI (DEFENDANT).*

1897. October 15.

Rent Recovery Act (Madras)—Act VIII of 1865, s. 14—Suit for rent—Limitation.

When a tenant has executed a muchalka specifying the dates on which the various instalments of rent are payable, the period of limitation for a suit by the landlord for the rent is to be computed from such dates.

CASE stated under Civil Procedure Code, section 617, by T. Sami Ayyar, District Munsif of Ongole, in Small Cause Suit No. 243 of 1897.

The case was stated as follows :—

"In Small Cause Suit No. 243 of 1897 on this Court's file, the Rajah of Venkatagiri has instituted a suit against one of his tenants for recovery of rent amounting to Rs. 7-13-8, being the arrears with interest due for fasli 1303 which commenced from 1st July 1893 and ended with the 30th June 1894. The suit is

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* Referred Case No. 18 of 1897.