

## APPELLATE CIVIL.

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

RANGA CHARIAR (DEFENDANT No. 1), APPELLANT,

v.

BALARAMASAMI CHETTI AND OTHERS (PLAINTIFFS AND  
DEFENDANT No. 2), RESPONDENTS.\*

*Limitation Act— Act XV of 1877, sched. II, art. 179—Step in aid of execution—  
Application for lists of properties attached.*

An application by a decree-holder for a list of the properties attached in execution of his decree is not a step in aid of execution within the meaning of the Limitation Act, schedule II, article 179.

APPEAL against the order of J. Hewetson, Acting District Judge of Chingleput, in Appeal Suit No. 523 of 1896, reversing the order of T. T. Ranga Chariar, District Munsif of Poonamallee, in Execution Petition No. 720 of 1896.

This was an application by the decree-holder in Original Suit No. 472 of 1890 on the file of the District Munsif, Poonamallee, which was passed on the 4th of May 1891. Properties of the judgment-debtor having been attached, the decree-holder now applied on the 14th of August 1896 under Civil Procedure Code, section 235, that they be brought to sale. The last application in execution was made on the 21st June 1892, but, on the 25th of January 1895, the decree-holder applied for a list of the properties attached. The District Munsif dismissed the application as being barred by limitation, but the District Judge on appeal reversed his decision and remanded the matter ruling on the authority of *Kunhi v. Seshagiri*(1), that the application on the 25th of January 1895 was a step in aid of execution, and that the application accordingly was not barred by limitation.

The judgment-debtor preferred this application.

*Krishnamachariar* for appellant.

*Sivagnana Mudaliar* for respondents.

JUDGMENT.—We think this case is clearly distinguishable from *Kunhi v. Seshagiri*(1).

\* Appeal against Appellate Order No. 59 of 1897.

(1) I.L.R. 5 Mad., 141.

We cannot see how an application for a list of attached property can be said to be an application to take a step in aid of execution.

The appeal is allowed, and the District Munsif's order restored with all costs.

RANGA  
CHARIAR  
v.  
BALA-  
RAMASAMI  
CHETTI.

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## APPELLATE CIVIL.

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

VENKAYYA GARU (PETITIONER), APPELLANT,

v.

1897.  
December 13.

VENKATA NARASIMHULU (COUNTER-PETITIONER), RESPONDENT.\*

*Guardians and Wards Act—Act VIII of 1890, ss. 7, 8—Testamentary appointment of a guardian.*

A Hindu mother has no authority to appoint a guardian for her son by will; it is accordingly the duty of the Court on an application under Guardians and Wards Act, 1890, for the appointment of a guardian for the son of a Hindu widow who had purported to make such an appointment to inquire, under section 7, as to the necessity for an appointment being made and itself to appoint a fit and proper person.

APPEAL against the order of G. Campbell, District Judge of Ganjam, on Miscellaneous Petition No. 362 of 1896.

This was an application under Guardians and Wards Act, 1890, section 8, for the appointment of a guardian of one Mushnuri Ramamurti, an infant aged ten years. It appeared that one Narasimhulu, who opposed the present application, had been appointed guardian by the will of the adopted mother of the infant. The District Judge dismissed the application, seeing no sufficient reason to interfere under the above circumstances.

The applicant preferred this appeal.

*Vylianadha Ayyar* and *Pattabhirama Ayyar* for appellant.

*Mr. N. Subramanyam* for respondent.

JUDGMENT.—Assuming that the will in this case is genuine (a question, however, which has not been tried), the appointment by it of a guardian cannot be held to be such an appointment as comes within section 7, clause 3, of the Guardians and Wards Act, for a

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\* Appeal against Order No. 129 of 1897.