

MANTHARA-
VADI
VENKAYYA
v.
THE
SECRETARY
OF STATE FOR
INDIA IN
COUNCIL.

1894 corresponds to section 54 of Act X of 1870. In the present case the acquisition has been completed in the sense that the property has absolutely vested in Government and in our opinion article 18 does not govern such a suit and, there being no other article applicable to the case, the general residuary article 120 must be held to govern the case. That being so the suit is not barred by limitation. We must allow the appeal with costs in this and in the lower Appellate Court and, reversing the lower Appellate Court's decree, restore that of the District Munsif.

APPELLATE CIVIL.

Before Mr. Justice Benson and Mr. Justice Bhashyam Ayyangar.

1903.
December 15.

VEDAVALLI NARASIAH (THIRD DEFENDANT), APPELLANT,

v.

MANGAMMA AND FOUR OTHERS (REPRESENTATIVES OF PLAINTIFFS
Nos. 1 AND 2, AND DEFENDANTS Nos. 1, 2 AND 4), RESPONDENTS.*

*Construction of statutes—Enactments relating to substantive rights—Effect on
pending suits—Enactments relating to procedure—Effect of—*

It is a general rule that when the Legislature alters the rights of parties by taking away or conferring any right of action, its enactments, unless in express terms they apply to pending actions, do not affect them. An exception to this general rule is where enactments merely affect procedure, but do not extend to rights of action.

SUITS to recover karnikam kalavasam, or percentage of crops payable to persons performing the duties of village accountant in the Venkatagiri Estate. The suits were instituted on 30th June 1897. During their pendency, Madras Act II of 1894 was extended to the office of village accountant in the Venkatagiri Estate. That Act was enacted "to amend the law relating to village officers in permanently-settled and certain other estates," and provides for the appointment of village officers by the revenue officer. Section 33 provides that no Civil Court shall have

* Second Appeals Nos. 307 and 308 of 1902, presented against the decrees of T. M. Swaminatha Ayyar, District Judge of Nellore, in Appeal Suits Nos. 17 and 18 of 1900, presented against the decrees of T. Varadarajulu, District Munsif of Kanigiri, in Original Suits Nos. 250 and 249 of 1897.

authority to take into consideration or decide any question regarding cess or payments under section 27, which last-mentioned section relates to the remuneration of village officers. The Acting District Judge, in modification of the District Munsif's decree, held that second plaintiff and fourth defendant were entitled equally to the kalavasam.

Third defendant preferred these second appeals.

C. V. Ananthakrishna Ayyar for appellants.

JUDGMENT.—In these cases the Court had jurisdiction to entertain and decide the suits when they were instituted, viz., on the 30th June 1897.

Madras Act II of 1894 was extended to the office of village accountant in the Venkatagiri Estate during the pendency of the suits; but this did not take away the jurisdiction of the Court to decide the suits then pending before it and thus take away the plaintiff's right of action in the ordinary Civil Courts.

It is a general rule that when the Legislature alters the rights of parties by taking away or conferring any right of action, its enactments, unless in express terms they apply to pending actions, do not affect them. But there is an exception to this rule, namely, where enactments merely affect procedure, but do not extend to rights of action (per Jessel, M.R., *In re Joseph Suche and Co.*(1)).

There is nothing in the wording of section 21, Madras Act III of 1895, to negative the application of this general rule.

The only other point urged by the appellant is that the adoption of the second plaintiff by his uncle was invalid, because the natural parents and the adoptive father of the second plaintiff were under pollution owing to the birth of the second plaintiff and the death of the wife of the adoptive father.

The adoptive father and the second plaintiff being of the same *gotra*, the religious ceremony of *datta homam* was not necessary (*Govindayyar v. Dorasami*(2)). That being so, the adoption was not invalid. The second appeals fail, and we dismiss them.

(1) L.R., 1 Ch.D., 48 at p. 50;

(2) I.L.R., 11 Mad., 5.