

BRINSON, C.J., High Court in *Madan Mohan Gossain v. Kumar Rameswar Malia*
 AND (1) has adopted the same view. Kondanna, it is said, is a
 KRISHNA- tenant by sufferance and his possession is under the common law
 SWAMI not adverse, while his representatives are trespassers.
 AYYAR, J.

SUBBRAVETI
 RAMIAH
 v.
 GUNDALA
 RAMANNA.

It seems doubtful whether the fiction of a tenancy by sufferance should be kept up after the Transfer of Property Act, according to which a lease is determined by efflux of the time limited thereby (see section 111). Such a tenancy does not operate in England to interrupt the running of time. See *Day v. Day* (2). Nor under article 139, is it of any avail to the landlord. Whether for purposes of article 144 a distinction should be made between Kondanna and his sons appears to us to be doubtful. But however this may be, there seems to us to be nothing wrong in holding that if the plaintiff would be barred against Kondanna if now alive, he would be likewise barred against his sons.

The second appeal is dismissed with costs.

APPELLATE CIVIL.

Before Mr. Justice Abdur Rahim.

1909.
 July 19, 22.

KARUMBAYIRA PONNAPUNDAN AND ANOTHER
 (DEFENDANTS NOS. 1 AND 2), PETITIONERS,

v.

AUTHIMOOLA PONNAPUNDAN AND ANOTHER (PLAINTIFFS),
 RESPONDENTS.*

Plaint, amendment of, by party to whom it is returned for proper valuation.

A plaintiff, to whom a plaint was returned for properly valuing the properties claimed therein, altered the valuation as directed therein and struck out some of the properties to bring the suit within the jurisdiction of the Court:

Held, that there was nothing illegal in the amendment and that it was competent to the Court to accept such amended plaint.

CIVIL Revision Petition under section 622 of Act XIV of 1882 presented against the order of K. S. Lakshmi Narasaiyar, District Munsif of Valangiman, in Original Suit No. 337 of 1907.

The facts of this case are set out in the judgment.

(1) (1907) 7 C.L.J., 615 at p. 626. (2) (1908) L.R., 3 P.C., 751 at p. 761.

* Civil Revision Case No. 740 of 1908.

T. B. Venkatarama Sastriar for petitioners.

N. R. K. Thathachariar for respondents.

ABDUR
RAHIM, J.

JUDGMENT.—In this case the Munsif having found on the trial of an issue to the effect that the subject-matter of the suit was undervalued and that if properly valued it would exceed the pecuniary jurisdiction of his Court returned the plaint for presentation to the proper Court after the valuation had been corrected in accordance with his finding. The plaintiff amended the plaint by correcting the valuation and also struck off some of the properties from the plaint so as to bring the rest of the claim within the jurisdiction of the Munsif. He then re-presented the plaint so amended in the same Court and put in a petition stating that he relinquished his claim to the properties which he had struck out. The Munsif thereupon admitted the plaint and the question is, had he the power to do so. The *vakil* for neither party has been able to refer me to any authority which covers the exact point, nor does the Civil Procedure Code afford a clear answer. But I think in dealing with a question of this nature I ought to act upon the principle that unless there is anything in the nature of a definite enactment which curtails its powers a Court has inherent power to adopt a course of procedure which obviously tends to facilitate justice in preference to one which though it may have the appearance of being more technically correct, is likely to result in many cases to unmerited hardship and even to denial of justice to a litigant. Besides I do not see why the action of the Munsif should not be held to fall within the letter of section 57, Civil Procedure Code, read with section 54, Civil Procedure Code. And since under section 53, Civil Procedure Code, clause (c), the Court itself may at any time before judgment amend the plaint, I do not think that, when an amendment is made by the plaintiff and is sanctioned by the Court, it can be said that the Court had no power to allow or accept the amendment.

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I hold therefore that the order of the Munsif is right and dismiss the petition with costs.

This judgment was appealed against and confirmed in Letters Patent Appeal No. 120 of 1909 by Benson and Sankaran-Nair, JJ., on 20th January 1910.