

SUNDARA  
 PANDIA  
 THEVAN  
 v.  
 VELATHIL  
 APPA  
 THEVAN.

section 3 of Madras Act III of 1895 can arise. The office, however, clearly falls under clause (3) of that section inasmuch as it is not one of the offices exempted therein and is an office in a "Proprietary Estate," that is, an Inam village the grant of which has been confirmed by Government (section 4 (d) of Madras Act II of 1894). The suit was, therefore, not cognizable by a Civil Court and was rightly dismissed by the District Judge. The second appeal is dismissed with costs.

## APPELLATE CIVIL.

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

KAMATCHI AMMAL (PLAINTIFF), APPELLANT,

v.

SUNDARAM AYYAR (DEPENDANT), RESPONDENT.\*

*Receiver—Suit against Receiver to recover amount not recovered by Receiver owing to alleged negligence—Necessity for leave of the Court.*

When a party feels aggrieved at the conduct of a Receiver, he should seek redress against the Receiver in the proceeding in which he was appointed. If separate proceedings be taken against him, either in that Court or elsewhere, they should be with the leave of the Court under whose authority the Receiver was acting.

SUIT for a sum of money which the defendant, as Receiver in Original Suit No. 53 of 1893 in the Madura (West) Subordinate Court had, as plaintiff alleged, failed to collect, owing to negligence. Plaintiff alleged that a debt had become barred by limitation and claimed that defendant, as Receiver, was bound to recoup it, with interest. The first issue raised the question whether the suit was maintainable without the sanction of the Court. The District Munsif, citing *Miller v. Ram Ranjan Chakraverti*(1), held that the suit was not maintainable without the sanction of the Madura (West) Subordinate Court. He also held that the suit was barred by limitation. He dismissed it. On appeal, the Subordinate

\* Second Appeal No. 870 of 1901, presented against the decree of T. Varada Rao, Subordinate Judge of Madura (East), in Appeal Suit No. 36 of 1900, presented against the decree of A. Narayanan Nambiar, District Munsif of Madura, in Original Suit No. 609 of 1899.

(1) I.L.R., 10 Calc., 1014.

Judge disagreed with the District Munsif as to the necessity for leave, but, as he agreed with him on the question of limitation, he dismissed the appeal.

KAMATURI  
AMMAL  
P.  
SUNDARAM  
AYYAR.

Plaintiff preferred this second appeal.

*P. R. Sundara Ayyar* and *K. N. Ayya* for appellant.

*P. S. Sivaswami Ayyar* for respondent.

JUDGMENT.—Though the litigation has come to an end and the property has been handed over by the Receiver to the Party entitled there is no allegation that the Receiver has been discharged from his office by the Court and we must proceed on the assumption that he is still accountable to the Court as Receiver.

As a Receiver is but an officer of the Court, acting within the limits of the authority assigned to him for and on behalf of the Court it follows that, ordinarily, the party feeling aggrieved by his conduct as Receiver should seek redress against him in the very proceeding in which he was appointed as Receiver and that any separate proceedings taken against him either in that Court or elsewhere should be with the leave of the Court under whose authority the Receiver was acting (*Searle v. Choate*(1), *Miller v. Ram Ranjan Chakravarti*(2) and *Kabilaso Koer v. Rajhu Nath Sakan Singh*(3)). The case strongly relied on by the appellant's Vakil (*Aston v. Heron*(4)) itself lays down the general principles which warrant the above conclusions.

In the present case, as no leave was obtained the suit must fail and it is not necessary for us to consider what article of the Limitation Act is applicable to suits of this kind if brought with the leave of the Court.

We may add that if suits of this kind could be brought without the leave of the Court there would be considerable difficulty in satisfactorily applying the law of limitation.

We dismiss the second appeal with costs.

(1) L.R., 25 Ch.D., 723.

(2) I.L.R., 10 Cal., 1014.

(3) I.L.R., 18 Cal., 481.

(4) 2 M. & K., 396.