

to be ejected on the ground of expiry of the term of a lease granted before the commencement of this Act."

I find it impossible to hold that this addition was not intended to add one more *independent* ground to the grounds (a) to (e) on which the tenant was liable under the unamended section to be ejected at the suit of the landlord. The ingenious argument of Mr. Nagabhushanam that this addition cut down the meaning of the plain language of clause (e) so as to confine the expression 'a registered lease' found in that clause to a lease executed after the Act came into force and so as to exclude a registered lease deed executed before the Act came into force did not impress me at all as valid. It is difficult to believe that the Legislature, while granting the right to the landlord to eject on the expiry of the lease term, a tenant of old waste to whom a registered lease deed for a term exceeding five years was granted after the Act came into force, intended to refuse the same right to eject, to the landlord if the lease deed whose term has expired had been granted before the Act.

As regards the other points dealt with in the judgment of my learned brother, I express my concurrence and have nothing to add.

N.R.

JAMPANA  
SOMADU  
vs.  
ZAMINDAR  
OF  
MIRZAPURAM,  
—  
SADASIYA  
AYYAR, J.

## APPELLATE CIVIL.

*Before Mr. Justice Seshagiri Ayyar and Mr. Justice Phillips.*

RAMASWAMI PILLAI (FIRST DEFENDANT), APPELLANT,

v.

GOVINDASAMI NAICKER (PLAINTIFF), RESPONDENT.\*

1918,  
November 4.

*Limitation Act (IX of 1908), sec. 15—Suits against insolvent—Effect of adjudication—Subsequent annulment—Saving of limitation for suits—Adjudication, whether absolute stay of suits—Obtaining of leave to sue from Court—Condition precedent to sue, if sufficient to save limitation—Provincial Insolvency Act (III of 1907), sec. 16, cl. 2.*

In computing the period of limitation for suits instituted against a person after an order adjudicating him an insolvent was annulled, section 15 of the Limitation Act does not permit the deduction of time during which the order was in

\* Second Appeal No. 2225 of 1917.

RAMASWAMI  
PILLAI  
v.  
GOVINDASAMI  
NAICKER.

force, as, under section 16, clause 2, of the Provincial Insolvency Act, an order of adjudication does not effect an absolute stay of suits against the insolvent, but only makes it necessary that leave to sue should be obtained from Court before a suit could be filed against him while the adjudication was in force.

*Soni Ram v. Kanhaiya Lal* (1913) I.L.R., 35 All., 227 (P.C.), and *Doraisami Padayachi v. Vaidyalinga Padayachi* (1917) 33 M.L.J., 46, referred to. *Shunmugam v. Moideen* (1885) I.L.R., 8 Mad., 229, distinguished.

SECOND APPEAL against the decree of B. H. WALLACE, the District Judge of Tanjore, in Appeal Suit No. 19 of 1917, preferred against the decree of K. K. SRINIVASA ACHARIYAR, the Additional District Munsif of Kumbakonam, in Original Suit No. 160 of 1916.

The material facts appear from the judgment.

*K. Krishnaswami Ayyangar* for the appellant.

*K. Bhashyam Ayyangar* for the respondent.

The JUDGMENT of the Court was delivered by

SESHAGIRI  
AYYAR, J.

SESHAGIRI AYYAR, J.—This Second Appeal can be disposed of on the short point of limitation. The bond and the pro-note sued on were executed in February and April 1910. The suit was brought in July 1915. In October 1910, the first defendant applied to be adjudged an insolvent and was so adjudged in December 1911. In July 1914 that adjudication was annulled, because there was a composition with the creditors. Apparently the present plaintiff received no dividends under the composition. He is the assignee of the bond and the pro-note. The question is whether his present claim is barred by limitation. Mr. Bhashyam Ayyangar, for the respondent, contended that section 15 of the Limitation Act saved the bar. His argument was that the order of adjudication was tantamount to an order to stay all further proceedings in the matter. As we read section 16, clause (2) of the Provincial Insolvency Act, what the order of adjudication effects is not an absolute stay, but a direction that before a suit is brought, a condition precedent should be complied with, namely, the obtaining of leave to sue from the Court. In our opinion, section 15 of the Limitation Act does not operate to save limitation in cases where the suit could have been instituted on complying with a preliminary requisite in that behalf. The learned vakil relied on *Shunmugam v. Moideen*(1)

(1) (1885) I.L.R., 8 Mad., 229.

That case proceeded on the construction of the particular order before the Court. Moreover the authority of that decision is much shaken by the decision of the Judicial Committee in *Beti Maharani v. The Collector of Etawah*(1). As regards *In re General Rolling Stock Company (Joint Stock Discount Company's Claims)*(2) it is clear that what the Court of Appeal lay down is that so long as the matter is pending before the Bankruptcy Court, the liquidator can admit a claim to proof and the fact that leave to prove the debt is given or refused does not affect the question. In *Umni Koya v. A. P. Umma*(3), this Court held on a construction of section 273 of the Code of Civil Procedure that there was a total prohibition against persons other than the decree-holder from executing the decree. In that view, section 15 clearly applied.

RAMASWAMI  
PILLAI  
v.  
GOVINDASAMI  
NAICKER.  
—  
SESHAGIRI  
AYYAR, J.

Having regard to section 9 of the Limitation Act and to the observation of the Judicial Committee of the Privy Council in *Soni Ram v. Kanhaiya Lal*(4), we are unable to agree with the District Judge that section 15 of the Limitation Act is applicable to this case. *Vide also Doraisami Padayachi v. Vaidyalinga Padayachi*(5). For these reasons, we think that the suit was barred by limitation. We must, therefore, reverse the decree of the District Judge and restore that of the District Munsif with costs here and in the Court below.

K.B.

---

(1) (1895) I.L.R., 17 All., 198 (P.C.).

(2) (1872) 7 Ch. App., 646.

(3) (1912) I.L.R., 35 Mad., 622.

(4) (1913) I.L.R., 35 All., 227 (P.C.). (5) (1917) 33 M.L.J., 46.