

not opposed. We certify accordingly under section 110 of the Code of Civil Procedure.

AMBA
v.
SRINIVASA*
KAMATHI.

The petition is further for leave to appeal *in forma pauperis*. In *Munni Rama Awasty v. Shoe Churn Awasty*(1) Counsel (Mr. OGDFIELD, J. Moore) referred generally to a practice of the Court in India granting such leave, mentioning Bengal Regulation XXVIII of 1814. But no precedent for its grant has been proved in this court and the authority of decisions in other High Courts is against it. *Jagadanand Asram v. Rajendra Roy*(2) and *Ramhishen Lal v. Manna Kumri*(3). We respectfully adopt the grounds of the latter decision and dismiss the petition so far as it relates to leave to appeal *in forma pauperis*. There will be no order as to costs.

N.R.

APPELLATE CIVIL.

Before Sir John Wallis, Kt., Chief Justice, and Mr. Justice Seshagiri Ayyar.

RIPON PRESS AND SUGAR MILL COMPANY, LIMITED
(DEFENDANT), APPELLANT,

1918,
July 26 and
29.

v.

NAMA VENKATARAMA CHETTY (PLAINTIFF),
RESPONDENT.*

Limitation Act (IX of 1908), art. 116—Company registered under the Indian Companies Act (VI of 1882)—Suit for dividend by a shareholder, governed by art. 116—'Registered' in art. 116, meaning of.

A suit by a shareholder against a company registered under the Indian Companies Act (VI of 1882) to recover dividends duly declared by the company, is governed by article 116 of the Limitation Act as the right to a dividend arises out of the contract between the shareholders contained in the registered memorandum and articles of association.

'Registered' in article 116 means 'registered' not only under the Indian Registration Act (III of 1877) but also under special Acts, such as the Indian Companies Act, which requires the memorandum and articles of association of a company to be registered.

A dividend is a debt on a 'contract in writing registered' within article 116 of the Limitation Act.

(1) (1847) 4 M.I.A., 114 at 136.

(2) (1912) 17 C.L.J., 381.

(3) (1916) 3 P.L.J., 179.

* Appeal No. 371 of 1917.

RIPON PRESS
AND SUGAR
MILL CO.,
LTD.
v.
NAMA
VENKATA-
RAMA
CHETTY,

APPEAL against the decree of H. R. BARDSWELL, District Judge of Bellary, in Original Suit No. 12 of 1917.

In so far as it is material for the purposes of this report, the facts of the case are as follow :—This was a suit brought on 4th April 1917 by a shareholder of a company registered under the Indian Companies Act (VI of 1882) against the company for recovery of dividend duly declared by the company on 14th March 1913. There were no special articles of association and the articles in table A to the Indian Companies Act were therefore applicable. The defence *inter alia* was that the suit was barred by limitation. The lower Court decreed the claim holding that it was not barred by limitation. The defendant company preferred this appeal.

C. Sambasiva Rao for the appellant.

H. Balakrishna Rao for the respondent.

The JUDGMENT of the Court was delivered by

WALLIS, C.J.

WALLIS, C.J.—This appeal raises an interesting question on the law of limitation as to which, so far as we are aware, there is as yet no authority in India, namely as to the period of limitation for a suit by a shareholder against a registered company to recover dividends. In England it is well settled that a dividend is a speciality debt for which a period of twenty years is allowed by 3 and 4 William 4, cap. 42, section 3. This was first pointed out by Lord Justice CHRISTIAN in *Smith v. The Cork and Bandon Ry. Co.*(1) which has been followed in later cases and in England in *In re Artisans' Land and Mortgage Corporation*(2).

In India we have to look to the provisions of our Limitation Act. The right to receive a dividend which has been duly declared is one of the rights of every shareholder by virtue of the contract which he is deemed to have entered into with all the members of the company under section 39 of the Indian Companies Act, 1882. The terms of that contract are to be found in the memorandum of association, and in the special articles of association, if any, and if there are no special articles of association and in so far as they are not inconsistent with them, then in the table A which is appended to the Act. *Prima facie* the provisions of articles 72 to 76 in table A, which deal with the declaration and payments of dividends, are applicable

(1) (1870) Ir. Rep., 5 Eq., 65.

(2) (1904) 1 Ch. D., 796.

and form the contract under which dividends are payable. Now, the memorandum of association is required by law to be registered and the articles in table A in so far as they are applicable are by section 38 of the Companies Act to be deemed to be the regulations of the company in the same manner and to the same extent as if they had been inserted in the articles of association, so that by virtue of section 38 the debt here must be deemed to have arisen from a memorandum and articles of association duly registered under the Companies Act.

RIPON PRESS
AND SUGAR
MILL CO.
LTD.
2.
NAMA
VENKATA-
RAMA
CHETTY.
WALLIS, C.J.

Now, article 115 of the Limitation Act is 'for compensation for the breach of any contract, express or implied not in writing registered and not herein specially provided for'. There is no special article for the recovery of dividends, and therefore article 115 will apply unless article 116 is applicable. Article 116 is 'for compensation for the breach of a contract in writing registered,' and it is now settled that that means 'for breach of any contract in writing registered.' 'Registered' in the Limitation Act, must be read as defined in the General Clauses Act of 1897. Section 3, clause 45 of that Act says 'registered' used with reference to a document shall mean registered in British India under the law for the time being in force for the registration of documents. It has been contended for the appellant that the 'law for the time being in force for the registration of documents' must mean the Indian Registration Act for the time being. That, however, appears to us to be unduly restricting the meaning of that clause. The Companies Act provides for the registration of the memorandum and the articles of association, which are documents, and there may be other statutes such as the Copyright Act, which provide for the registration of other documents. There is, we think, no reason why the term 'registered' within the meaning of the General Clauses Act should not include documents registered under any special law of that kind as well as registration under the Indian Registration Act. We are, therefore, of opinion that the present suit is for compensation for the breach of a contract in writing registered and that the period of limitation therefore under article 116 is six years and the suit is not barred. The other contentions of the appellant also fail.

In the result the appeal fails and is dismissed with costs.

N.R.