

mistake made below, and this mistake was corrected by the direction of the Deputy Registrar. There is no substance in the appellant's objections and they must be overruled. As he has insisted on these questions being argued and as the Government Pleader has been served the appellant must pay costs which we fix at Rs. 50. The appeal will not be accepted until both the court-fee and costs which we have now awarded have been paid.

CHIDAMBARAM  
CHETTIAR,  
*In re.*  
LEACH C.J.

G.R.

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### APPELLATE CIVIL

*Before Sir Lionel Leach, Chief Justice, and Mr. Justice  
Krishnaswami Ayyangar.*

S. V. SUBBA RAO (THIRD RESPONDENT), APPELLANT,

1939,  
November 23.

v.

THE CALICUT CO-OPERATIVE URBAN BANK,  
LTD., CALICUT (PETITIONER), RESPONDENT.\*

*Indian Limitation Act (IX of 1908), art. 182—Applicability  
to execution of awards under the Co-operative Societies  
Act (II of 1912).*

Article 182 of the Indian Limitation Act applies to the execution of an award passed under section 51 of the Co-operative Societies Act, 1912.

*Co-operative Credit Society, Arungunam v. Chinnaswami*(1)  
overruled.

APPEAL under Clause 15 of the Letters Patent against the judgment of VENKATARAMANA RAO J., dated 12th April 1938 and passed in Appeal against Appellate Order No. 2 of 1938 preferred to the High Court

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\* Letters Patent Appeal No. 74 of 1938.

(1) I.L.R. [1937] Mad. 495.

SUBBA RAO  
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URBAN BANK.

against the order of the District Court of South Malabar, dated 13th December 1937 and made in Appeal Suit No. 175 of 1937, preferred against the order of Court of the District Munsif of Calicut in Execution Petition No. 5320 of 1936.

*N. R. Sesha Ayyar* for appellant.

*K. Kuttikrishna Menon* for respondent.

LEACH C.J. The JUDGMENT of the Court was delivered by LEACH C.J.—This appeal raises the question whether article 181 or article 182 of the Limitation Act applies to the execution of an award passed under section 51 of the Co-operative Societies Act, 1912. If the article which applies is article 181 the award which was filed in the Court of the District Munsif of Calicut for execution will be time-barred. If article 182 applies it still may be executed. The District Munsif and the District Judge of South Malabar on appeal held that article 182 applies and their decision was confirmed in a second appeal which was decided by VENKATARAMANA RAO J. The learned Judge has dealt with the argument in full and we are in complete agreement with his observations.

Rule XV (7) (c) of the rules framed under the Act states that on application to the civil Court having jurisdiction over the subject-matter of the decision or award, the Court shall enforce the decision or award as if it were a final decree of the Court, and were it not for the judgment of CORNISH J. in *Co-operative Credit Society, Arungunam v. Chinnaswami*(1) we should not have thought that there would have been any doubt about the applicability of article 182. It is conceded by the learned Advocate for the appellant, as it must be, that an award under the Co-operative

(1) I.L.R. [1937] Mad. 495.

Societies Act attracts all the provisions of the Code of Civil Procedure in the matter of execution. If it attracts all the provisions of the Code with regard to execution it must, in our opinion, of necessity attract the provisions of the Limitation Act which apply to the execution of decrees. The award when it is filed has to be executed as a decree of the Court and in effect it becomes a decree of the Court. As the provisions of the Code of Civil Procedure admittedly apply, the provisions of section 48 of the Code must apply. Section 48 provides that a decree shall run for a period of twelve years provided, of course, that steps in execution are taken at intervals of not more than three years as required by article 182 of the Limitation Act. If section 48 applies it follows that the appropriate article is 182 and not article 181. If article 182 did not apply but article 181 did, there would be a conflict as article 181 fixes a period of three years and section 48 a period of twelve years.

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CORNISH J. considered that the question was really decided in *Sambasiva Mudaliar v. Panchanada Pillai*(1) but we do not accept that opinion. *Sambasiva Mudaliar v. Panchanada Pillai*(1) related to the provisions of section 40 of the Revenue Recovery Act, the wording of which is very different from the wording of Rule XV (7) (c) of the Co-operative Societies Act. We can see no reason for applying the decision in *Sambasiva Mudaliar v. Panchanada Pillai*(1) to a case like the present one, and we consider that *Co-operative Credit Society, Arungunam v. Chinmaswami*(2) was wrongly decided.

As indicated by VENKATARAMANA RAO J. in his judgment, the decision of the Calcutta High Court in

(1) (1907) I.L.R. 31 Mad. 24.

(2) I.L.R. [1937] Mad. 495.

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*Chaitram Sagormull v. Hardwari Mull & Co.*  
 (*Re: Beledere Jute Mills, Limited*)(1) which was fol-  
 lowed by this court in *H.R.E. Board, Madras v.*  
*The Shirur Mutt*(2), has direct bearing on the question  
 under discussion. The Calcutta case had reference  
 to the execution of an award under section 15 of the  
 Indian Arbitration Act, which says that where an  
 award has been filed in Court it shall (unless the Court  
 remits it to the reconsideration of the arbitrators  
 or umpire or sets it aside) be enforceable as if it were  
 a decree of the Court. It was held that article 182  
 and not article 181 applied. RANKIN C.J. remarked :

“If one looks at the question of limitation from the  
 point of view of the different alternatives, there can be one  
 inference only and that is that the words employed by the  
 Legislature in the first sub-section of section 15 of the Indian  
 Arbitration Act were intended to go to the question of limi-  
 tation as well as to the question of procedure.”

There is no difference here between section 15 of  
 the Indian Arbitration Act and rule XV-7 (c) of the  
 Co-operative Societies Act and as *Chaitram Sagormull*  
*v. Hardwari Mull & Co. (Re: Beledere Jute Mills,*  
*Limited)*(1) has been accepted by a Bench of this Court  
 as embodying the correct statement of the law it  
 decides the matter. The appeal will be dismissed with  
 costs.

N.S.

(1) (1927) I.L.R. 55 Cal. 499.

(2) (1934) I.L.R. 58 Mad. 760.