

## APPELLATE JURISDICTION(a)

*Special Appeal No. 133 of 1871.*

BUCKAPATNAM THATHACHARLU.....*Special Appellant.*  
 KAJAMIYA and another.....*Special Respondents.*

Suit by a vakil for fees. The defendants retained the plaintiff as their Pleader in Original Suit No. 2 of 1863, on the file of the Civil Court of Cuddapah, and executed a vakalatnāma to him in July 1863, but no special agreement regarding fees was made. The plaintiff conducted that suit for the defendants as their Vakil until decree, which was made in September 1864. The present suit was instituted in December 1866. *Held*, reversing the decree of the Lower Appellate Court, that as there was no special agreement, the plaintiff's right of suit did not arise until he had completely discharged his duty in the conduct of the suit, which he had done in 1864. Consequently, the present suit, having been brought within three years from that date, was not barred.

THIS was a Special Appeal against the decision of A. C. Burnell, the Acting Civil Judge of Cuddapah, in Regular Appeal No. 18 of 1870, confirming the Decree of the Court of the Principal Sadr Amin of Cuddapah in Original Suit No. 136 of 1868.

1871.  
 July 3.  
 S. A. No. 133  
 of 1871.

The suit was brought for Rupees 800, as pleader's fees, including interest thereon for 39½ months.

The plaintiff stated that the defendants retained him as their pleader in Original Suit No. 2 of 1863 on the file of the Civil Court of Cuddapah, under an agreement to pay him 600 Rupees as fees; and that he pleaded on their behalf until the suit was disposed of; that he made frequent demands on the defendants for the sum due, the last demand being on the 2nd November 1866, but they refused to pay him. Hence the suit.

The 1st defendant pleaded that the suit was barred by the Statute of Limitation.

The 2nd defendant did not appear.

The Principal Sadr Amin dismissed the suit.

The Plaintiff appealed to the Civil Court.

The Civil Judge confirmed the decree of the Court of First Instance upon the ground that the suit was barred by the Law of Limitations, considering that the Act commenced to run from the date of the execution of the vakalatnāma

(a) Present: Scotland, C. J. and Kindersley, J.

1871. to plaintiff, July 1863 ; the plaint in the present suit not  
 July 3. having been filed until December 1866.

L. No. 133  
 of 1871.

The plaintiff preferred a Special Appeal to the High Court upon the ground that the suit was not barred by the Act of Limitations.

*Parthasaradhi A'yyangar*, for the special appellant, the plaintiff.

*Gurumurti A'yyar*, for the 1st special respondent, the 1st defendant.

The Court delivered the following

JUDGMENT :—We are of opinion that the decree in this case is not maintainable. The question as to the bar is, when did the period of limitation commence to run, or, in other words, when did the plaintiff's right to bring a suit first arise ? Now, although a Vakil may not be obliged to undertake the conduct of a suit unless paid a fee, we think it is clear that having once undertaken its conduct, he is bound to proceed with it, and cannot sue for his fee until he has completed the work which is the consideration for the fee, except where his client has dispensed with his services, and the Court has, under the power given for that purpose, granted him a portion of the proper fee. In the present case, therefore, as there was no special agreement, the plaintiff's right of suit did not arise until he had completely discharged his duty in the conduct of the suit, and that he appears to have done in 1864. The present suit being brought within 3 years from that date was not barred. We, therefore, must reverse the decree of the Lower Appellate Court and remand the suit to the Lower Appellate Court for the hearing and determination of the questions raised by the appeal to that Court. The appellant's costs in Special Appeal must be paid by the respondents. The costs hitherto, in both the Lower Courts, will abide the determination in the Regular Appeal.

*Suit remanded.*