

District Board Vs. Babu Ram

District Board Vs. Babu Ram

SooperKanoon Citation : sooperkanoon.com/495824

Court : Allahabad

Decided On : Nov-28-1940

Reported in : AIR1941All152

Appellant : District Board

Respondent : Babu Ram

Judgement :

ORDER

Mulla, J.

1. These are two applications in revision by the District Board, Dehra Dun, which raise the same question of law for consideration. In each case the District Board brought a suit for realizing a certain amount as tax on circumstances and property for the period 1934-35. The suit in each case was brought more than three years after the date on which the tax was payable. Both suits have been dismissed by the same learned Small Cause Court Judge on the ground that they being suits for recovery of money were subject to the three years rule of limitation and were consequently barred by time. The only question, for consideration in these cases is whether this view of the law of limitation taken by the learned Small Cause Court Judge is correct. Having considered the relevant provisions of the Limitation Act, I am clearly of the opinion that the learned Small Cause Court Judge was wrong in holding that the three years rule of limitation applied to these suits. They are not

really suits for recovery of money but for the recovery of a liability under a particular statute. The suits to which the three years' rule of limitation is applicable are set out in Articles 37 to 115, Limitation Act. The suits in question obviously do not fall within the purview of any one of these articles. It is thus clear that they are governed by Article 120 which provides for suits for which no period of limitation is provided elsewhere in the schedule to the Limitation Act. The learned Judge was therefore wrong in applying the three years' rule of limitation and dismissing the suits as time-barred. This view of the law of limitation is fully supported by the judgment of the Madras High Court in *President Municipal Commission, Guntur v. Srikakulupu Padmarazu* ('81) 3 Mad. 124. The same principle has been affirmed by a Full Bench of the Madras High Court in *Rajah of Vizianagram v. Thammanna* ('37) 24 A.I.R. 1937 Mad. 217. The relevant portion of the judgment in the Full Bench case runs as follows:

The other question dealt with in the judgment of the District Munsif is one of limitation. He has held the suits to be barred in respect of certain items on the footing that such a suit is governed by the three years rule of limitation. We see no warrant for applying the three years rule. The suit is not one for rent nor is it based on any contract express or implied. It is to enforce a liability created by statute.

2. The suit in which these observations were made by the Full Bench was brought under Section 88, Madras Local Boards Act, for the recovery of a cess. The result, therefore, is that I allow these applications in revision and setting aside the decrees of the Court below decree the suit in each case with costs in both Courts.