

Raman Chetti Vs. Kadirvalu and ors.

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Court : Chennai

Decided On : Mar-29-1898

Reported in : (1898)8MLJ148

Appellant : Raman Chetti

Respondent : Kadirvalu and ors.

Judgement :

1. It is objected that the appeal was not within time--that deducting the time taken in obtaining copy of the decree--the appeal was one day late or deducting that for obtaining copy of the judgment it was two days late. It was contended for the respondent that the appellant could claim only one or the other period, whichever was the longer. This contention is, however, opposed to the clear language of Section 12 of the Limitation Act, which allows the exclusion of both the periods. Doubtless, such portion of the time in obtaining one as forms a portion of the time in obtaining the other, cannot be treated as two separate periods and allowed twice over, but any period over and above that occupied in common should be allowed to be counted. In this case the copy of the judgment was applied for on the 27th October and that of the decree on the 28th October. The former copy was ready on the 31st October and the latter on the 2nd November. The time, therefore, occupied in obtaining both copies was from 27th October to 2nd November; that is seven days. The appeal was presented on the 97th day from the date of decree. Allowing the seven days for obtaining copies, it was within 90 days allowed and so in time.

2. As to the second appeal itself, on the findings of the Subordinate Judge no question of law arises. It is dismissed with costs.

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