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SooperKanoon Citation : sooperkanoon.com/776883

Court : Chennai

Decided On : Sep-16-1890

Reported in : (1891)ILR14Mad61

Judge : Arthur J.H. Collins, Kt. C.J. and ;Best, J.

Appellant : Sethu

Respondent : Krishna and ors.

Judgement :

1. The lower Appellate Court's judgment proceeds on the plaint alone, but the Judge appears to have lost sight of the fact that the property is stated in the plaint to have been entrusted to first defendant for the benefit of plaintiff and his mother. If such is the case, the plaintiff's suit will not be barred, as Section 10 of the Limitation Act will apply [Sethu v. Subra-manyu I.L.R. 11 Mad. 274 and Suddasook Kootary v. Ram Chunder I.L.R. 17 Cal. 620.

2. The lower Court's decree is set aside and ' the suit remanded for disposal on the evidence as to the portion which is the subject of this appeal.

3. The costs hitherto incurred will be provided for in the revised decree.