

Visvanathan Chetti Vs. Ramanathan Chetti and ors.

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SooperKanoon Citation : sooperkanoon.com/783927

Court : Chennai

Decided On : Apr-24-1901

Reported in : (1901)ILR24Mad646

Judge : Shephard and ;Bhashyam Ayyangar, JJ.

Appellant : Visvanathan Chetti

Respondent : Ramanathan Chetti and ors.

Judgement :

1. It was open to the petitioner, relying on the second paragraph of Section 5 of the Limitation Act, to appeal under Section 540 of the Code of Civil Procedure against the decree as amended, notwithstanding the expiration of one month from the date when the decree was passed. This being so, we are of opinion that a petition under Section 622 of the Code of Civil Procedure complaining of the variance of the decree is not admissible. Mr. Justice Mahmood in discussing the question in *Mania Ray v. Raghunandan Singh* I.L.R. 7 All. 282 overlooks the possibility of an appeal against the decree as amended, and for that reason comes to the conclusion that Section 622 of the Code of Civil Procedure must be applied. It must be admitted that Mr. Justice Mahmood's view has been followed in one or two cases in this Court, but no reported case is cited in which a Bench of Judges has held that an appeal against the amended decree will not lie.

2. We dismiss the petition with costs.

