

Krishnan Vs. Perachan

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Court : Chennai

Decided On : Feb-15-1892

Reported in : (1892)ILR15Mad382

Judge : Subramanya Ayyar and ;Best, JJ.

Appellant : Krishnan

Respondent : Perachan

Judgement :

1. We do not think that the money can be considered as having been received by the defendant for the plaintiff's use, so as to make Article 62 applicable; nor is the case one coming within any other special article of schedule II of the Limitation Act. It is, therefore, one for which no period of limitation is provided elsewhere, and consequently falls within Article 120, which gives a period of six years from the date when the right to sue accrued, Nund Ball Bose v. Meet Aboo Mahomed I.L.R. 5 Cal. 597 and Gurudas Pyne v. Ram Narain Sahu I.L.R.10 Cal. 860. This suit having been brought within six years from date of receipt of the money by defendant is therefore not time-barred.

2. The lower Appellate Court has found to be valid the sale at which plaintiff acquired a right to the money in question. In this finding we concur. As, by Section 2 of the Transfer of Property Act, Clause (d), transfers in execution of decrees are unaffected by the provisions of Section 135 of the same Act, we give plaintiff a

decree for Rs. 579-6-1 with interest at 6 per cent, per annum from date of suit to date of payment. Bach party to pay proportionate costs throughout.

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