

Ramasami Vs. Muttusami and anr.

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Court : Chennai

Decided On : Sep-24-1891

Reported in : (1892)ILR15Mad380

Judge : Muttusami Ayyar and ;Parker, JJ.

Appellant : Ramasami

Respondent : Muttusami and anr.

Judgement :

1. The District Judge found the plaintiff's case was established the averment in the plaint being that the loan was made on 30th September 1885 and was repayable in one month from that date. The plaint was presented on 24th October 1888. There was also evidence to support the finding of the Judge.

2. Even, therefore, if the admission contained in the will does not amount to an acknowledgment, the suit is not barred. We agree with the decision of the Calcutta High Court in Rameshwar Mandal v. Ram Chand Roy I.L.R. 10 Cal. 1033, that such a suit will fall under Article 115

[Article 115:

Description of suit. | Period of | Time from which period begins to run.

| limitation. |

For compensation for the breach | Three years ... | When the contract is broken, or
of any contract, express or implied, | | (where there are successive breaches)
not in writing registered and not | | when the breach in respect which
herein specially provided for. | | the suit is instituted occurs, or (where
| | the breach is continuing) when it
| | ceases.]

[Article 57:

For money payable for money | Three years... | When the loan is made.]
lent. | |

3. The decree of the learned Judge must, therefore, be reversed and that of the
District Judge restored, but as this point was not taken before we shall make no
order as to costs in this Court. The plaintiff is entitled to other costs.

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