

Devarasetti Narasimham and anr. Vs. Devarasetti Venkiah and anr.

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Court : Chennai

Decided On : Nov-17-1915

Reported in : AIR1916Mad1142(2); 31Ind.Cas.796

Judge : Kumaraswami Sastri, J.

Appellant : Devarasetti Narasimham and anr.

Respondent : Devarasetti Venkiah and anr.

Judgement :

Kumaraswami Sastri, J.

1. The only question for determination is whether standing crops are to be treated as moveable or immoveable property for the purposes of the Indian Limitation Act.
2. It is argued for the petitioners that Section 2, Clause 13, of the Civil Procedure Code defines moveable property as including standing crops and that a suit for recovery of the value of standing crops wrongfully cut and carried away is a suit for the recovery of compensation in respect of moveable property governed by Article 29 of the second Schedule to the Limitation Act.
3. I do not think that the definition in the Civil Procedure Code can govern the provisions of the Limitation Act. There is no definition of moveable property in the Limitation Act and reference must be had to the General Clauses Act, X of 1897,

which enacts that the definitions given in the Act shall govern all enactments passed subsequent thereto. Immoveable property is defined by Clause 25 of Section 3 as including things attached to the earth or permanently fastened to anything attached to the earth. This will clearly include standing crops. *Pandah Gazi v. Jennuddi* 4 C.P 665 : 2 C.L.R. 526; *Sadu v. Sambhu* 6 B.P 592.

4. Though standing crops were included in the term 'moveable property' for the purposes of the Civil Procedure Code, a similar clause which was proposed when the Limitation Act was drafted in 1908 was for some reason or other given up.

5. If standing crops are immoveable property, the case is governed by the Full Bench decision in *Katagiri Venkataramanujam v. Patibanda Basavayya* 21 Ind. Cas. 213 : 14 M.L.T. 225 : 25 M.L.J. 447 : 1913 M.W.N. 869.

6. The decision of the District Munsif is correct and the petition fails and is dismissed with costs.

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