

(1921) 03 MAD CK 0003

Madras High Court

Case No: None

Vellaiyammal Bibi and Others

APPELLANT

Vs

Koolayanna Rowthan and Others

RESPONDENT

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**Date of Decision:** March 23, 1921**Acts Referred:**

- Limitation Act, 1963 - Section 4

**Citation:** 66 Ind. Cas. 23 : (1921) 14 LW 269 : (1921) 41 MLJ 273

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**Judgement**

1. The judgment appealed against was delivered on November 3rd and an application for copies of judgment and decree was made on the same

date. Copies were ready on December 12th and the appeal was presented on January 12th, i.e. the 70th day.

2. But the appellants were entitled to deduct 27 days in November and 12 days in December which were occupied in obtaining a copy of the

decree. Deducting these 39 days, the appeal was presented on the 31st day, but January 11th was a Sunday and therefore u/s 4 Limitation Act,

the appeal might be presented on the next working day, and was in time if so presented.

3. It is argued for the 3rd respondent that the appellants were not entitled to deduct the 14th November seeing that copy stamps for the copy of

the decree were called for on November 13th and were not furnished till the 15th.

4. But that day (November 14th) has to be excluded under. Section 12(3) of the Limitation Act as one of the days requisite for obtaining a copy

of. the judgment; and it has been held in Silamban Chetty v. Ramanadhan Cahtty ILR (1909) Mad. 256 and Raman Chetiy v. Kadirvelu (1897) 8

M.L.J.. 148 that a party is entitled to exclude both these periods so long as they are not counted twice over. It is suggested that those decisions

are wrong and that the question should be referred to a Full Bench, but we see no reason to decline to follow them and we think that they correctly

interpret the intention of the legislature in enacting Section 12 of the Limitation Act, which was that parties should have the benefit of excluding both

of these periods under els. 2 and 3 in computing the period of limitation prescribed for an appeal.

5. This appeal is allowed with costs. The District Judge will be directed to admit the appeal and dispose of it on its merits.