

(1874) 06 PRI CK 0001

Privy Council

Case No: None

Rajah Chaitanya
Chundra
Harischandana
Jagadevu Bahadoor

APPELLANT

Vs

The Collector of
Ganjam On Behalf of
The Governor of Fort
St. George and
Narayana Maharaja
Devu, Zemindar of Kolli
Kota

RESPONDENT

Date of Decision: June 5, 1874

Citation: (1874) 1 IndApp 335

Hon'ble Judges: James W. Colvile, Barnes Peacock, Montague E. Smith, Robert P. Collier,
Lawrence Peel, JJ.

Judgement

Montague E. Smith, J.

1. This is a very clear case. Both the Courts in India have decided that the claim of the Plaintiff is barred by the limitation of twelve years. He brought his suit, as the adopted son of the late Zemindar of Hautghur, to recover fifty villages which had belonged to the talook of Hautglmr. That talook was sold by the Government for arrears of revenue. It is alleged by the second Defendant, who was the purchaser, that the fifty villages were sold with the rest of the talook. It is alleged on the part of the Appellant that those villages, although in some sense belonging to the talook, ought not to have been sold by the Government, inasmuch as they were not subject to revenue, but were mocassa villages, which had been alienated from the zemindary, and paid a quit-rent only to the zemindar. That is the question upon the merits, if the merits could be tried. The sale was in 1854. The second Defendant was put into actual possession of the villages in 1855, and has remained in possession ever since. This suit was not brought until the 28th of September,

.1868, which is more than twelve years after he was so put in possession. Prima, facie therefore, the Statute of Limitation is a bar. Mr. Cowie has endeavoured to shew that a fresh cause of action arose in consequence of some proceedings of the Government, by which it is (said they made a new grant of these villages to the second Defendant, the present zemindar, at an increased revenue of Rs. 5000. But such a grant, supposing it to have been made, would not give a new cause of action, and cannot affect the time when the only cause of action arose to the present Appellant. The Appellant is suing under the title he had in 1854 and 3855, and he has no other title, and he does not allege that he has had any possession, or that the Government has given him possession since his first dispossession. It is quite unnecessary, therefore, to go into those proceedings, into which Mr. Cowie went in some detail, for the purpose of raising the point. It is sufficient to say that all that passed between the Government and the second Defendant, the present zemindar, does not at all affect the question of limitation. The bar applies if the cause of action has not arisen within twelve years. It is quite clear here that it did not arise within that period, and therefore the judgments of the Courts in India are right.

2. Their Lordships will humbly recommend Her Majesty to affirm the judgment of the High Court of Madras, and to dismiss this appeal with costs.