

SUPREME COURT OF INDIA

Madhukar Vishwanath Munje

Vs.

Madhao

(B Kirpal and V Khare JJ.)

26.08.1998

ORDER

1. In the instant case, a suit had been filed by the appellant for possession in respect of a property which his de facto guardian, during the time when the appellant was a minor, had transferred. The case of the appellant was that such transfer was void ab initio being in contravention of Section 11 of the Hindu Minority and Guardianship Act, 1956 and, therefore, a suit could be filed within 12 years of his attaining majority under Article 65 read with Sections 6 and 8 of the Limitation Act, 1963.

2. During the course of discussion, a question arose whether Article 59 or Article 60 and/or Section 8 of the Limitation Act would not be appropriate provision of law which would be applicable in the instant case. While Mr Lalit relied upon a decision reported as Kisan Ganpat Nimbale v. Pandurang Nathu Wankhade in support of his contention that it is Article 65 which will apply to a case like the present, Mr Sanghi on the other hand submitted that this Court in R. Thiruvirkolam v. Presiding Officer, has held that even a void order has to be held to be void by a court and, therefore, the appropriate article would not be Article 65 because without getting the sale deed set aside the relief of possession cannot be granted to the appellant.

3. In our opinion, important questions arise in the present case and it would be more appropriate that this case is decided by a larger Bench, Papers may be placed before Hon'ble the Chief Justice of

India for appropriate orders.