

Article cannot be held
to be within the



Article 68 deals only with specific movable property which falls under one of two classes, viz. (i) such property as has been lost; or (ii) as has been acquired by (a) theft, dishonest misappropriation, or (c) conversion. No other kind of movable property is affected by the Article 68.

A suit for declaration of rights of the movable property does not attract the Article 68. When a plaintiff never had a right to the possession of specific movable property the suit for recovery thereof cannot be held to be within the Article 68. ' Specific movable property' means such property wrongfully taken of which the plaintiff may demand the delivery in specie. In Raghunath Das v. Gokul Chandra, (AIR 1958 SC 827), the Supreme Court has held that a suit by an heir against other heirs to recover his share of the movable estate of the deceased cannot be held by specific movable property wrongfully taken by the defendant and the suit for recovery of the same does not attract Art. 68. In British India Steam Navigation Co.

Ltd. v. Sandara, (AIR 1945 Mad. 60), it has been held that specific movable property may also include money. In Mangun v. Dolhin, [ILR 25 Cal.

692 (FB)], it has been held that crops when stand on the land are immovable property but when harvested and severed from the land then become specific movable property. When a movable property is acquired by the - defendant by theft or misappropriation, the suit for recovery of the same attracts the Art. 68. Not merely misappropriation but dishonest misappropriation is necessary to attract the Art. 68. The term ' conversion' in Art.

68 means wrongful appropriation of goods of another. When a person finding the goods of another or having them in his possession applies or converts them to his own use without the owner's consent, the owner may maintain an action against him as it is an act of altering, changing or appropriating without right. When a person has possession of another's movable and refuses to deliver it, it amounts to an act of conversion. There can be no conversion unless the defendant expresses an intention to detain the property in defiance of the plaintiff. In *Shastri v.*

Radhalakshmi, (AIR 1953 Mys. 213), it has been held that there can be no conversion when the defendant takes possession of the movable property without any intention to exercise permanent or temporary dominion but it may amount to trespass. In *Lancashire and Yorkshire Railway Co. v.*

Mac Nicoli, (88 LJKB 601), Lord Atkin has held that 'conversion' is dealing with goods in a manner inconsistent with the owner's right of possession provided that there is also an intention on the part of the defendant to deny the owner's right or to assert right inconsistent with the right of the true owner. In *Adjai Coal Co. v. Pannalal*, (AIR 1930 PC 69), it has been held that Art. 68 (Art.

48 of the Act of 1908) applies to all conversions whether dishonest or not or whether the trespass is due to mere inadvertence or due to inadvertence without reasonable care. In *Champalal v. Ramchander*, (AIR 1976 Raj. 75), it has been held that the onus is on the plaintiff to prove that he first learnt within three years of the suit that the property was in the possession of the

defendant. Under Article 68 the time begins to run when the owner first discovers his property in the possession of the defendant.

In *Sirish v. Ramji Bechar Das*, (AIR 1936 Pat. 179), it has been held that the knowledge referred in this Article (Art. 68) is the knowledge of the taking away of the property. In *State of M. P. v.*

Gurnam, [(1975) MPLJ 87), it has been held that the limitation runs from the date when the plaintiff learns in whose possession the property is and not from the date when he could have known had he exercised reasonable diligence.