

Article or with intent
to commit fraud



**ASSIGN
BUSTER**

Article 56 applies to suits brought expressly to cancel, set aside or declare the forgery of an instrument. Forgery means the fraudulent making or alteration of any record, deed, writing, instrument, register, stamp etc.

to the prejudice of another man's right. Forgery is the false making or materially altering with intent to defraud, of any writing which, if genuine, right apparently be of legal efficacy, or the foundation of legal liability.

According to Section 463 of the Penal Code, whoever makes any false document or part of a document, with intent to cause damage or injury to the public or to any person, or to support any claim or title, or to cause any person to part with property, or to enter into any express or implied contract, or with intent to commit fraud or that fraud may be committed commits forgery. In *Gnanaprakasam v. Parasakthi*, (1940 MWN 983), it has been held that where a Will is contested not merely on the ground that it was a forged Will but also on the ground of want of capacity on the part of the testator, the Article 56 does not apply.

But the document is forged is the principal relief and any other relief is merely subsidiary to it, the suit falls under the Article 56. In *Abdul Rahim v. Kirparam*, (16 Bom. 186), it has been held that where some substantial relief (e. g. possession) of forgery is sought and cancellation or declaration of the forged document is subservient or merely ancillary and not necessary to the granting of the relief of forged document, the Article 56 does not apply. The term 'issued' in Article 56 refers to the kinds of documents to which people commonly apply that term in business.

In *Gauhar v. Ghulam*, [(1908) 10 PLR 295], it has been held that a suit to declare an unregistered Will as forged and beyond the power of the testator to make is not governed by the Article 56: as the Will is neither 'issued' nor 'registered'. Article 56 fixes a limitation of three years from the date of knowledge of fraud.