

Article is established
the question whether
the possession



**ASSIGN
BUSTER**

Article 67 applies to all suits between landlords and tenants. A suit by a landlord against his ex-tenant for recovery of possession from him is also governed by the Art. 67. In *Sarda Ram v.*

Sundarlal, (AIR 1968 All. 363), it has been held that a landlord's suit to recover possession from the legal representatives of the original tenant after the determination of the tenancy is governed by Art. 67 and will be barred, if brought more than 12 years after the tenancy had expired. Art. 67 applies only to a suit for possession by the landlord against the tenant but not for recovery of money from the tenant by the landlord.

In order to attract Art. 67 it is necessary that the suit has been filed by the plaintiff as landlord against the defendant as tenant. In *Atyan v. Venkanna*, (AIR 1966 SC 629), it has been held that when the Art. 67 applies and the relationship is established the question whether the possession of the defendant-tenant is adverse or not does not arise because the possession of the tenant is the possession of the landlord and a tenant cannot acquire title by adverse possession. Under Art. 67, the limitation for filing a suit for eviction by the landlord against the tenant commences from the date of determination of tenancy. Under clause (a) of Section 111 of the Transfer of Property Act the lease comes to an end upon the expiry of the terms for which it was granted.

So a tenancy for a fixed period is determined on the expiry of the term so granted. So, the limitation to file the suit for ejection against the tenant commences from the date when the term expires. In *Syed Abdul Latif v. Kamai Mai*, (AIR 1975 Raj. 284), it has been held that once the relationship of

landlord and tenant was established and the suit for recovery of possession was filed, the onus is upon the defendant tenant to prove that the tenancy was determined 12 years after the date of the suit. Once the relationship of the landlord and tenant is established, a suit for possession by the landlord is governed by the Art. 67 and the limitation starts from the date of determination of tenancy. The question when a tenancy is determined depends upon the nature of the tenancy under which the tenant holds the property.

The tenancy may be one at Will or a yearly tenancy or a tenancy for life which may be determined either by the death of the tenant or by surrender. In *Raja Ram v. Baswva*, [(1975) 1 Kant. LJ 100], it has been held that a tenant at will holds it at the will of the landlord who can exercise his right to determine the tenancy by serving a notice to quit under Section 06 of the Transfer of Property Act. In *Sidram v.*

Mai lay, [(1962) 1 MLJ 128], it has been held that all suits for possession against the heirs of the tenant for life must be brought within 12 years of the death of the tenant.