
(1908) 04 MAD CK 0001
In the Madras High Court

Aiyyam Chetti and Others

APPELLANT

Vs

Poongavanam

RESPONDENT

Date of Decision : 09-04-1908

Acts Referred:

Citation : (1908) 18 MLJ 464

Judgement

1. The first objection that is taken is that the suit is barred. The auction-purchaser whose possession was resisted by the present plaintiff put in a petition u/s 335, Civil Procedure Code, and obtained an order for delivery of possession to him. The plaintiff then brought this suit against him

within the time limited by Article 11 of the 2nd Schedule of the Limitation Act. In his written statement, the 1st defendant objected that he was only

a benamidar - a statement he had made previously in his petition u/s 335, Civil Procedure Code; and thereupon the Court ordered defendants No.

2 and 3 as the real owners to be made parties, and they were so made parties. This was more than one year after the date of the order u/s 335,

Civil Procedure Code, and it is, therefore, contended that the suit is barred.

2. In our opinion, the suit, which the section provides; for, by the party against whom an order has been made under the section is a suit against the

party or parties in whose favour the order has been made, and Article 11 only applies to suits against such parties. The objection is, therefore,

untenable. As regards the merits there is evidence to support the finding. The second appeal is dismissed with costs.