
(1916) 09 MAD CK 0017
In the Madras High Court

Annamalai Pathan and Another

APPELLANT

Vs

Muthu Vijaya Raghunath Muthukumara Vanangamudi
Veluvetti Thevar and Others

RESPONDENT

Date of Decision : 18-09-1916

Acts Referred:

Citation : 39 Ind. Cas. 427 : (1917) 5 LW 120

Hon'ble Judges : Spencer, J;Phillips, J

Bench : Division Bench

Judgement

1. The appellants, who belong to the family of the mortgagors, have taken the objection that the plaintiff, who is the present zemindar, ought to

have joined his brothers as plaintiffs in suing on the mortgage executed in the late zemindar's favour. Even assuming that the property in question

was common to all the descendants of the original mortgagee, the plaintiff as the managing member of the family would be entitled to sue on behalf

of all the members without joining them as plaintiffs. Vide Kishen Parshad v. Har Narain Singh 9 Ind. Cas. 739 and Sheikh Ibrahim Tharagan v.

Rama Aiyar 35 M.K 635.

2. But in this case the plaintiff produced some evidence that the property was part of the impartible zemindari and as the defendants failed to rebut

this, the lower Court found against them on the facts. The second appeal fails and is dismissed with costs.