
(1893) 09 MAD CK 0024
In the Madras High Court

Attada Koormayya and Others

APPELLANT

Vs

Pragada Krishnamma Naidu and Others

RESPONDENT

Date of Decision : 04-09-1893

Acts Referred:

Citation : (1894) ILR (Mad) 165

Judgement

1. It must be inferred from the Sheristadar's report on the receipts of 1889 and the judge's subsequent order thereon that there was a request for

payment of the money realized in satisfaction of the decree, and such request as sufficient to keep the decree alive, as held in Venkatarayalu v.

Narasimha, I. L. R 2 M 174

2. Though the judge considers the opinion expressed in I. L. R 2 M 174 to be a mere obiter dictum, it was certainly one of the grounds of decision

in the case and we agree with it. With reference to the observation in Hem Chunder Chowdhry v. Brojo Soondury Debee, I. L. R 8 C 89 that the

money may be drawn at any time," it seems to us that in deciding whether any particular act is or is not an application for, or step in aid of

execution, it is the nature of the act that must be looked to and not the time at which it may possibly be done.

3. We set aside the order of the District Judge and direct that the execution be proceeded with.

4. The costs of this appeal will be costs in execution.