

(1891) 04 MAD CK 0013
In the Madras High Court

Chathappan

APPELLANT

Vs

Pydel

RESPONDENT

Date of Decision : 06-04-1891

Acts Referred:

Citation : (1892) ILR (Mad) 403

Hon'ble Judges : Parker, J;Muttusami Ayyar, J

Bench : Division Bench

Judgement

1. The question whether the decree, as amended, is binding on the appellant, was decided in the affirmative as between them and the decree-

holder in Pydel v. Chathappan ILR 14 Mad. 150. The matter is, therefore, res judicata as it is the same decree which is now under execution,

though the property attached is different. The decision, Parthasaradi v. Chinnakrishna ILR 5 Mad. 304 does not apply. It has been further argued

that the decree amended was not the final decree passed in Original Suit No. 162 of 1878, and the decree of the Appellate Court was the one

which should have been amended. We are referred to several decided cases in support of this contention, and especially to the decision,

Muhammad Sulaiman Khan v. Muhammad Yar Khan ILR 11 All. 267, in which the decision in Sundara v. Subbanna ILR 9 Mad. 354 was

dissented from.

2. Were the question not res judicata for the purposes of the execution of the amended decree we should have been inclined to refer to the Full

Bench the question of the correctness of the ruling in Sundara v. Subbanna ILR 9 Mad. 354.

3. We must dismiss the appeal, but under the circumstances we will make no

order as to costs in this Court.