

(1897) 10 MAD CK 0017
In the Madras High Court

Gadicherla China Seetayya		APPELLANT
	Vs	
Gadicherla Seetayya		RESPONDENT

Date of Decision : 15-10-1897

Acts Referred:

Citation : (1898) ILR (Mad) 45

Hon'ble Judges : Boddam, J;Benson, J

Bench : Division Bench

Judgement

1. We think the Subordinate Judge was wrong in holding that the defendant who had been exonerated from the suit was a party within the meaning of Section 244 (c) of the Civil Procedure Code, and, therefore, that the plaintiff could not bring a separate suit against him, but was bound to proceed in execution [see *Mukarrab Husain v. Hurmatunnissa* ILR 18 All. 52.
2. The fact that the plaintiff's claim arises out of expenses incurred in the course of executing the decree makes no difference. We express no opinion as to the merits of the plaintiff's claim. We, therefore, reverse the decision of the Subordinate Judge and direct him to restore the suit to his file and dispose of it according to law.
3. The respondent must pay the appellant's costs.