

(1900) 02 MAD CK 0011
In the Madras High Court

Gulam Mahade

APPELLANT

Vs

Ramakrishna Mudali and Another

RESPONDENT

Date of Decision : 26-02-1900

Acts Referred:

Citation : (1900) 10 MLJ 134

Hon'ble Judges : Subrahmania Aiyar, J; Davies, J

Bench : Full Bench

Judgement

Subrahmania Aiyar, J.—I am unable to agree with the contention urged on behalf of the respondents that the order passed by Moore, J.,

and myself granting the-review was ultra vires. In the first place, I am by no means satisfied that it is not open to this Court to entertain an

application for reivew in a second appeal on the ground of discovery of documentry evidence. Even if it were otherwise, the circumstance that the

order granting the review in the present case was granted on a ground which would not support it, does not render the order ultra vires (compare

L.R. 3 Indian App 221. The respondent had notice of the-application, and, not having appeared to oppose the application, must be held to be

bound by the order.

2. As to the question on the merits, we must accept the finding of the District judge. Even if Exhibit F were issued with reference to the mosque in

question it would be impossible to hold that the institution is governed by the clause therein as to appointment of a successor to the Muthavalli in

the absence of any evidence that that clause was at any time acted upon during the two centuries that have elapsed since the date of the exhibit.

3. I would, therefore, dismiss the second appeal with costs.

Davies, J.

4. I agree to the dismissal of this second appeal in review, on the ground that the application for review could not be entertained (Jackammal v.

Palaneappa Chetty, and Raru Kutti v. Mamad) it being based on the discovery of new and important evidence.