

(1891) 11 MAD CK 0021
In the Madras High Court

Hayagreeva

APPELLANT

Vs

Sami and Another

RESPONDENT

Date of Decision : 11-11-1891

Acts Referred:

Citation : (1892) ILR (Mad) 286

Hon'ble Judges : Parker, J;Handley, J

Bench : Division Bench

Judgement

1. We think that the lower Courts were right in holding that the plaintiff's right to go into defendants' land for the purpose of repairing his wall and roof was a right accessory to the easement which was established in the former suit of having the roof of his house projecting on defendants' land and discharging the water on defendants' land; and the lower Appellate Court was quite right in holding that there must be some limit of time to the exercise of such accessory right; but we think it was in error in only allowing the right to be exercised on one occasion and thus rendering further litigation necessary when other repairs become necessary in future. We shall modify the decree of the lower Appellate Court by providing that plaintiff's right of entering upon defendants' land to repair his roof and wall shall only be exercised once a year after one month's notice to defendants and between the hours of 9 a.m. and 5 p. m. Each party will bear his own costs of this second appeal.
2. The memorandum of objections is dismissed with costs.