

(1901) 10 MAD CK 0006
In the Madras High Court

Karuppa Goundan

APPELLANT

Vs

Kumarasami Goundan and Others

RESPONDENT

Date of Decision : 18-10-1901

Acts Referred:

Citation : (1902) ILR (Mad) 429

Hon'ble Judges : Moore, J; Davies, J

Bench : Division Bench

Judgement

1. It has been decided by both Courts that the plaintiff was the illegitimate son of his father and we are bound by that decision unless the matter

was res judicata. We find nothing in the judgment of this Court to which we have been referred deciding that the plaintiff was a legitimate son.

2. It is then urged for the plaintiff that as an illegitimate son he is still entitled to a share in the property of the defendants, his father's brother's sons,

on the ground that he is a co-parcener of theirs. The authority quoted in support of this contention is Raja Jogendra Bhupati Hurri Chundun

Mahapatra v. Nityanund Mansingh L.R. 17 IndAp 128 where it was held that an illegitimate son was a co-parcener of his father's legitimate son.

The decision stops there, and we are not prepared to extend its principle to the case of other collateral heirs in the face of the rulings of this Court,

in Krishnayyan v. Muttusami ILR 7 Mad. 407 Ranoji v. Kandoji ILR 8 Mad. 557 and Parvathi v. Thirumali ILR 10 Mad. 344 the two former of

which were cited at the hearing of the Indian appeal above noted and which were not commented on or disapproved.

3. We agree with the learned Judges of the Allahabad High Court who decided the case of Shome Shankar Rajendra Varere v. Rajesar Swami

Jangam ILR 21 All. 99 as to the effect of the decision of the Privy Council in the case relied on by the appellant's vakil.

4. The second appeal therefore fails and is dismissed with costs.