

(1917) 11 MAD CK 0048
In the Madras High Court

Keelangoti Narayana Tantri

APPELLANT

Vs

Nagappa and Others

RESPONDENT

Date of Decision : 14-11-1917

Acts Referred:

Citation : 44 Ind. Cas. 889

Hon'ble Judges : John Wallis, C.J.;Sadasiva Aiyar, J;Kumaraswami Sastri, J

Bench : Full Bench

Judgement

1. In the original vernacular petition it is quite clear that what the petitioner asked for was the liberty to withdraw with permission to bring a fresh suit.
2. In these circumstances, following Golam Mahomed v. Shibendro Pada Banerjee 12 C.W.N. 893 we think that the order "plaintiff is permitted to withdraw from the suit" must be read with the petition and construed as granting it. On the other construction the order was most misleading to the petitioner and not an order contemplated by the Code.
3. We allow the Letters Patent Appeal with costs, set aside the decree of the District Judge and remand the appeal to the District Judge for disposal according to law. Other costs will abide the result.