

(1897) 11 MAD CK 0024
In the Madras High Court

Kuppusarni Chetty

APPELLANT

Vs

Papathi Ammal and Another

RESPONDENT

Date of Decision : 29-11-1897

Acts Referred:

Transfer of Property Act, 1882 — Section 60

Citation : (1898) ILR (Mad) 369 : (1898) 8 MLJ 6

Judgement

1. The Judge is in error in supposing that the plaintiff having purchased a portion of the mortgaged property: is at liberty to redeem that portion only without redeeming the rest. This is clear on principle, and is expressly enacted in the last clause of Section 60 of the Transfer of Property Act. (See: also Tadiqotla Timmappa v. Lakshmamma, ILR 5 M. 385. Section 82 of the Transfer of Property Act on which the Judge relies does not permit the redemption of a mortgage piecemeal. It merely provides for contribution towards the mortgage debt rateably by each of several properties when they are owned by different mortgagors, or when being all the property of one mortgagor, there are prior encumbrances on some of the properties. (See also Roghu Nath Perahad v. Harlal Sadhu I. L. R 18 C. 320. We must therefore, reverse the decree of the lower Court and dismiss plaintiff's suit with costs throughout.