

(1901) 07 MAD CK 0004
In the Madras High Court

Lakshmanan Chetti

APPELLANT

Vs

Kuttayan Chetti

RESPONDENT

Date of Decision : 26-07-1901

Acts Referred:

Citation : (1901) ILR (Mad) 669

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

Bench : Division Bench

Judgement

1. We consider it is not open to the defendant now to raise the objection that the application No. 524 of the 2nd July 1897 was barred. He had

notice of that application and did not raise any objection to it. The Munsif thereupon ordered execution by ordering a warrant for the arrest of the

defendant which warrant was duly issued. That was an adjudication upon the application and it was, moreover, acted on, and no appeal has been

made in regard to it. It must therefore be held that the question whether the application No. 524 was barred is res judicata. To put the case in the

language of their Lordships of the Privy Council, the Subordinate Judge had jurisdiction upon the petition of the 8th October 1874 to determine

whether the decree was barred on the 8th October 1871, and he made an order that an attachment should issue. He whether right or wrong, must

be considered to have determined that it was not barred *Mungal Pershad Dichit v. Girija Kant Lahiri Chowdhury* L.R. 8. IndAp 123.

2. We accordingly reverse the order of the District Judge and direct execution to issue as prayed. The appellant's costs must be paid throughout

by the respondent.