

(1897) 09 MAD CK 0026
In the Madras High Court

Manuel S. Lobo

APPELLANT

Vs

Nicholos Britto

RESPONDENT

Date of Decision : 09-09-1897

Acts Referred:

Citation : (1898) ILR (Mad) 231 : (1897) 7 MLJ 268

Judgement

1. It is contended that because the plaintiff acquired the property in the defendant's name for the purpose of concealing it from Government, he being an official of Government who was not authorized to acquire by law, the plaintiff cannot recover possession of it from the defendant or obtain any relief in respect of it> We are unable to accept this view. No doubt the plaintiff intended to conceal the acquisition of the land from the authorities and acted dishonestly and in contravention of the rules of his department. But we do not think he can be said to have acted illegally so as to bring the case within the principle that a man is precluded from obtaining relief in respect of a transaction, the purpose of which was illegal and has been accomplished.

2. As to the question whether a declaratory suit lay, we are of opinion that the Judge is right. The defendant never asserted that he was in possession, and the finding is that he was not.

3. We dismiss the appeal without costs, as also the memorandum of objections.