

(1910) 01 MAD CK 0015
In the Madras High Court

Muthu Payal alias Muthu Nadan

APPELLANT

Vs

Nagalingam and Others

RESPONDENT

Date of Decision : 26-01-1910

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 41 Rule 22

Citation : (1910) 20 MLJ 878

Judgement

1. The appellant's Vakil says he has no instructions. The party does not appear. The second appeal is dismissed for default with costs.

2. The second appeal having been dismissed for default, the respondent presses his memorandum of objections. It is admitted that such a

memorandum under the old CPC cannot be argued. It is not a memorandum under rule 22 of order XLI of the New Code. In C.M.A. No. 124 of

1908 the question was not argued. We must, therefore, disallow this memorandum of objections. But the respondent says he is entitled to his costs

on the authority of Appeal Suit No. 208 of 1905. All that that case decided was that the Court had jurisdiction to allow costs upon such a

memorandum. That case does not compel us to hold that the respondent in every such case is entitled to the costs of his memorandum. In this case

we are not satisfied we should allow costs on the memorandum. The memorandum of objections is dismissed.