
(1907) 12 MAD CK 0003
In the Madras High Court

Narayanaswami Naick and Others

APPELLANT

Vs

Seshama Raju

RESPONDENT

Date of Decision : 20-12-1907

Acts Referred:

Citation : (1908) 18 MLJ 36

Judgement

1. We think the law is correctly stated in the opinion expressed by Sir Bahshyam Aiyangar in his judgment in the Full Bench case of Periasami

Mudaliar v. Seetharama Chettiar ILR (1903) M. 243. The sons of the deceased having been brought on the record in their character of personal

representatives of the deceased, the decree should be against them as personal representatives, the amount of the decree to be realised from the

estate of the deceased in their hands. It has been contended that the form of the decree adopted by the lower appellate Court may be upheld on

the ground that, the debt incurred by the deceased defendant is a family debt. There are two answers to the contention. The question cannot be

gone into in this suit since the defendants Nos. 2, 3 and 4 were brought on the record in their representative capacity. Further, the 2nd defendant

was relieved from the liability by the decree of the lower appellate Court and there has been no appeal against this.

2. We allow the appeal, set aside the decree of the Subordinate Judge and restore that of the Munsif.

3. The parties will pay their own costs in this Court and in the lower appellate Court.