

(1891) 11 MAD CK 0002
In the Madras High Court

P. Shangara Menon

APPELLANT

Vs

Pudiavittil Krishnan Nair and Others

RESPONDENT

Date of Decision : 11-11-1891

Acts Referred:

Citation : (1892) 2 MLJ 93

Judgement

O.S. No. 610 of 1887 was instituted by the 1st defendant, plaintiff's brother, who is alleged by plaintiff to have been his agent, the property which

1st defendant sought to recover in the above suit having been purchased in his name benami for plaintiff. The question is whether plaintiff is bound

by the decision in that case. The presumption is that the benamidar instituted the suit with the authority and consent of the true owner (Gopi Nath

Chobey v. Bhugwat Pershad I. L. R 10 C 697), and the Lower Courts have found Upon the evidence that the suit was instituted with the

knowledge of the plaintiff. He is therefore as much bound by the decree as if he had himself instituted the suit, and the present suit is barred as

being res judicata. The plaintiff stood by and permitted his undivided brother to sue for possession. There was nothing to put the person in

possession upon inquiry as to who was the real owner, and it is too late now for plaintiff to be allowed to recover on his secret title. The second

appeal is dismissed with costs.