

(1910) 09 MAD CK 0020
In the Madras High Court

Poduru Basava Raju and Another

APPELLANT

Vs

Poduru Bhoga Raju and Others

RESPONDENT

Date of Decision : 09-09-1910

Acts Referred:

Citation : 7 Ind. Cas. 896

Hon'ble Judges : Krishnaswamy Iyer, J;Abdur Rahim, J

Bench : Division Bench

Judgement

1. We think the lower appellate Court is right in its view that in the circumstances of this case, the father must be held to have represented his sons in the previous suit in which the question of the father's adoption was in issue and decided against the father. The learned pleader for the appellants has cited Ram Narain v. Bisheshwar Prasad 10 A. 411 and Sundar Lal v. Chhitar Mal 29 A. 1 : 3 A.L.J. 644 : 242A.W.N. (1906) in support of his contention, but we are not prepared to hold, on the authority of those two decisions, that in all cases a decree against the father will not bind the sons because the latter are jointly interested in the family property. The judgment in Second Appeal No. 1796 of 1908 does not lay down any proposition to the contrary. On the other hand, the decision in Subbanna Bhatta v. Subbanna 17 M.L.J. 180 : 30 M. 324 : 2 M.L.T. 83 and Kunjan Chetty v. Siddapillai 22 M. 461 shows that if on the facts of a particular case the father was held to have represented his sons in the previous proceedings, the latter will be bound by the judgment against their father. And we think that in this case where the question of the father's adoption was in dispute in the previous suit and the father fought the matter out, he must be held to have represented the sons.

2. We accordingly dismiss the second appeal with costs.