

**(1893) 08 MAD CK 0013**  
**In the Madras High Court**

|                                              |            |
|----------------------------------------------|------------|
| P.V. Sankaran Nambudripad and Another        | APPELLANT  |
| Vs                                           |            |
| Valia Konikaledathil Pangi Achen and Another | RESPONDENT |

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**Date of Decision :** 21-08-1893

**Acts Referred:**

**Citation :** (1893) 08 MAD CK 0013

**Hon'ble Judges :** Muthusami Aiyar, J

**Bench :** Division Bench

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## **Judgement**

Muthusami Aiyar, J.—The facts of the case are fully stated by the late District Judge in his order in Civil Miscellaneous Appeals Nos. 525

and 527 of 1890 dated the 16th February 1891. The decree of which execution was held by him to be barred, was the one passed in Original Suit

No. 5 of 1882 and to this suit the 1st appellant before me was not a party. The judge is therefore right in holding that the appellant is not at liberty

to claim restitution u/s 583 of the Code of Civil Procedure. The Subordinate Judge also acted properly in striking out his name from the application

for execution filed in Original Suit No. 5 of 1882. His real position was that of a purchaser in possession who had bought the land forming the

subject-matter of the suit of 1882 in execution of the decree in Original Suit No. 4 of 1881 and if he was dispossessed, his proper remedy was a

proceeding u/s 332 of the CPC and not by way of restitution. This appeal must fail and is dismissed with costs.