
(1895) 02 MAD CK 0001
In the Madras High Court

R. Krishna Pillai and Others

APPELLANT

Vs

K. Rengasamy Pillai and Others

RESPONDENT

Date of Decision : 15-02-1895

Acts Referred:

Citation : (1895) 5 MLJ 187

Judgement

1. The Subordinate Judge has agreed with the District Munsif in finding that the Kanom sued on is not proved to be genuine. But he has

nevertheless given plaintiff a decree on the ground that Exhibits A, B, C & E, contain ad-missions of 1st defendant and his brother being

Kanomdal, under those through whom plaintiff claims, and that these, are i admissions made within the statutory period so as to prevent the

plaintiff's claim to redeem being time barred. We agree with West J, in Govindrav Deshmuk v. Bagho Deshmukh ILR (1884) Section 548 in

holding that a plaintiff failing to establish the mortgage on which the suit was based should not be allowed to fall back upon some other as to which

admissions may have been made by the defendants in other proceedings. In Unnian v. Rama ILR (1884) M. 415 the decree was passed on a

mortgage expressly pleaded, and relied on by the defendant; so also in Unicha Kandyib Kunhi Kutti Nair v. Valia Pidigail Kimhanied Kutti

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2. We therefore set aside the decree of the lower appellate Court and restore that of the District Munsif.

3. Respondents must pay appellant's costs in this Court and in the lower appellate Court.