

(1892) 05 MAD CK 0001
In the Madras High Court

Rama and Another

APPELLANT

Vs

Varada

RESPONDENT

Date of Decision : 02-05-1892

Acts Referred:

Citation : (1893) ILR (Mad) 142

Hon'ble Judges : Muttusami Ayyar, J; Best, J

Bench : Division Bench

Judgement

1. It is argued that the application for execution is barred by reason of the application of 1889 having been returned for amendment with reference

to Clause (f) of Section 235 of the Code, and the amendment not having been made within the time allowed for the purpose. The defect in the

previous application consisted in omitting to state the earlier of two previous applications and its result. It is admitted that this omission was in no

way calculated to prejudice the judgment-debtor or to mislead the Court; such being the case, though the application was formally defective with

reference to the provisions of Section 235, it substantially complied with them.

2. We are, therefore, unable to hold that it was not an application made in accordance with law within the meaning of Article 179 of schedule II of

the Limitation Act. This view is in accordance with the decision in Ramanadan v. Periatambi ILR 6 Mad. 250.

3. Our attention has been drawn to the decision of a Full bench of the Calcutta High Court in Asgar Ali v. Troilokya Nath Ghose ILR 17 Cal. 631

but in that case the defect was not merely formal. The property sought to be attached was not fully described nor was a list of such property

produced.

4. We dismiss this appeal with costs.