

(1893) 10 MAD CK 0018
In the Madras High Court

Raman		APPELLANT
	Vs	
Kunhayan and Another		RESPONDENT

Date of Decision : 17-10-1893

Acts Referred:

Citation : (1894) ILR (Mad) 304

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

Bench : Division Bench

Judgement

1. The Subordinate Judge is in error in thinking that the petitioner is estopped by his previous petition No. 545 of 1891. There was no occasion for mentioning in that petition the irregularities now relied on as vitiating the sale, as that petition was filed for the purpose of obtaining an adjournment with a view to raising the money by private arrangement. In a similar case the Calcutta High Court also held that omissions in such a petition did not create an estoppel ILR 7 Cal. 613 We set aside the order and direct the Subordinate Judge to allow the parties to adduce evidence with reference to the alleged irregularities and to dispose of the case in accordance with law. The costs of this appeal will abide and follow the result.