

(1910) 02 MAD CK 0062
In the Madras High Court

Ramaswami Iyengar

APPELLANT

Vs

Janaki Ammal and Others

RESPONDENT

Date of Decision : 02-02-1910

Acts Referred:

Citation : 6 Ind. Cas. 723

Hon'ble Judges : Ralph Benson, J; Krishnaswami Aiyar, J

Bench : Division Bench

Judgement

1. The Munsif made his decree, on the 31st January, The plaintiff applied for review on the 12th March. The Munsif allowed the review on the 9th April. There was then no decree of the Munsif from which an appeal could be preferred; until the Munsif's order was set aside on the 13th September, this state of things continued. Again it was held in Ramanadhan Chetti v. Narayanan Chetty 27 M. 602 : 14 M.L.J. 321, though this was afterwards overruled, that a review could not be proceeded with if an appeal was also preferred. The attention of the Judge does not appear to have been drawn to these matters. The discretion to excuse the delay is with the Judge; and if he had exercised it with due reference to the considerations we have adverted to, we should not have been disposed to interfere. In these circumstances we think we ought to reverse the Judge's judgment and remand the case to him to be dealt with according to law. It will be open to the Judge to re-consider the question of delay in the light of the remarks we have made. The costs will be provided for in the revised decree.