

(1898) 09 MAD CK 0011
In the Madras High Court

Savithri Animal

APPELLANT

Vs

Ramasami and Others

RESPONDENT

Date of Decision : 05-09-1898

Acts Referred:

Citation : (1898) 8 MLJ 266

Judgement

1. Assuming the facts to be as stated by the plaintiff and the money to have been advanced on the instrument of August 1891, before the attachment in September, we are of opinion that the attachment cannot override the right already acquired by the plaintiff. At the date of the attachment he was in a position to insist on the instrument being registered. He cannot be in a worse position, because in December he took another instrument for the same sum and had that registered. Section 276 of the CPC does not; profess to override the general principle that a creditor cannot assert higher rights over the debtor's property than a debtor himself possessed. The decree of the Court below must be reversed. There must be a decree as prayed for the amount claimed with costs and interest.