

(1898) 10 MAD CK 0005
In the Madras High Court

Sivasankaram Pillai

APPELLANT

Vs

Panchami Kesiya

RESPONDENT

Date of Decision : 26-10-1898

Acts Referred:

Citation : (1898) 8 MLJ 302

Judgement

1. As far as we can see, the suit was dismissed on the mere ground that a witness, viz., the assignor, said that the plaintiff was a benamidar for

Mahomed Ibray Ravuthan. Assuming that to be true, we do not think it is sufficient ground for dismissing the suit. We are not aware that it has ever

been held that a benamidar may not sue in his own name to recover a debt. Provided that the defendant is not in any way prejudiced and is

allowed to raise any defence which would avail him against the person really entitled, there seems to be no objection to such a suit. It might even

be necessary in the interests of the defendant to have the real party joined. Here it does not appear that any objection was taken by the defendant.

2. We must reverse the decree and remand the suit for disposal on the merits. Costs to abide the result.