

(1895) 11 MAD CK 0003
In the Madras High Court

Soopiyadath Kunhammad, Karnavan of his Tarwad (dead)
and Another

APPELLANT

Vs

Soopiyadath Amad and Others

RESPONDENT

Date of Decision : 23-11-1895

Acts Referred:

Citation : (1906) 16 MLJ 27

Judgement

1. We do not think that the reason given by the District Munsif for refusing to make the plaintiffs a party to the execution proceedings was correct. He, no doubt, ought to have inquired into the question as to whether the plaintiff was the legal representative of the deceased Moosa, or not. But without doing so he dismissed the plaintiff's petition to be made a party. It was, however, open to the plaintiff to appeal against that order see *Narayanasami Reddi v. Osuru Reddi* ILR (1901) M. 548 but he did not do so. His remedy was by appeal, and having failed to take that remedy, he cannot now bring a separate suit to obtain the remedy. We, therefore, dismiss this second appeal with costs.