

(1892) 09 MAD CK 0018
In the Madras High Court

Srimana Vikraman and Another

APPELLANT

Vs

Rayan and Others

RESPONDENT

Date of Decision : 19-09-1892

Acts Referred:

Citation : (1893) ILR (Mad) 293

Hon'ble Judges : Wilkinson, J; Muttusami Ayyah, J

Bench : Division Bench

Judgement

1. The only point urged is that the Subordinate Judge was in error in reversing the whole decree when only two of the defendants appealed, one of whom withdrew from the appeal and reliance is placed on the wording of Section 544, Civil Procedure Code, and a case reported, *Boydonth Surmah v. Ojan Bibee* 11 W.R., 238. That case is not on all fours with the present. The ground common to all the defendants was that the plaintiff was not the jenmi and that defendants Nos. 1 and 2 never held under him. The first and second defendants disclaimed all interest. The third defendant claimed to be the jenmi and the eighth defendant, the appellant in the Lower Appellate Court, claimed as kanomdar under the third defendant. The decree of the District Munsif proceeded on the ground that the plaintiffs were the jenmis and that defendants Nos. 1 and 2 held under them. The defendants Nos. 1 and 2 having disclaimed all interest, the only substantial defendants were the third and eighth. We cannot, therefore, say that the Subordinate Judge was wrong in reversing the decree of the Court of First Instance on the appeal of one of the defendants alone. The second appeal is dismissed with costs.