

(1910) 01 MAD CK 0028
In the Madras High Court

Srinivasiengar

APPELLANT

Vs

Kanthimathi Ammal and Others

RESPONDENT

Date of Decision : 18-01-1910

Acts Referred:

Citation : (1910) ILR (Mad) 465 : 5 Ind. Cas. 917

Hon'ble Judges : Abdur Rahim, J

Bench : Single Bench

Judgement

Abdur Rahim, J.—The question is whether the judgment-debtors of the petitioner and the respondent are the same within the meaning of Section 295, Civil Procedure Code. The persons against whom the petitioner obtained his decree are the sons of one Maruthamuthu Pillai and the decree is to be satisfied out of the assets of the family in their hands, and the person against whom the respondent obtained her decree is Maruthamuthu Pillai himself. The Munsif has rightly held that the decision in Govind Abaji Jakhadi v. Mohoniraj Vinayak Jakhadi (sic) B. 494, covers the question and is opposed to the petitioner's contention. And it seems to me that, that ruling is in accordance with the language of Section 295, Civil Procedure Code. The fact that the two decrees are to be realised of the family property is not decisive e question against whom the decrees are And, as has been pointed in Kaliappan Servaikaran v. Varadarajulu 19 M.L.J. 651 : 33 M. 75 : 6 M.L.T. 199 : 3 Ind. Cas. 737, when a decree is obtained against the legal representatives of a deceased person, the legal representatives are the judgment-debtors and not the estate of the deceased.

2. This petition is dismissed with costs.