

(1893) 09 MAD CK 0022
In the Madras High Court

Vaidyanatha Ayyar and Others

APPELLANT

Vs

Chinnasami Naik

RESPONDENT

Date of Decision : 04-09-1893

Acts Referred:

Citation : (1894) ILR (Mad) 108

Hon'ble Judges : Muttusami Ayyar, J; Best, J

Bench : Division Bench

Judgement

1. There can be no doubt that a surviving partner can sue alone for the recovery of a partnership debt, and, in that case, no certificate will be necessary. On this point we agree with the Bombay High Court in Motilal Bechardoss v. Ghellabhai Hariram ILR 17 Bom. 6
2. We are also of opinion that the suit is maintainable if brought by the surviving partner conjointly with the heir of the deceased partner. In the latter case a certificate of heirship will be necessary, unless it appears, on the face of the document sued on, that the debt is a coparcenary debt-- compare Venkataramanna v. Venkayya ILR 14 Mad. 377
3. The above is, we think, a sufficient answer to the questions referred to us.