

(1910) 01 MAD CK 0010
In the Madras High Court

Velammal and Another

APPELLANT

Vs

Vavammal and Others

RESPONDENT

Date of Decision : 18-01-1910

Acts Referred:

Specific Relief Act, 1877 — Section 42

Citation : (1910) 20 MLJ 349

Judgement

1. We do not think the suit is barred by limitation so far as the prayer is for a declaration that the decree on the hypothecation does not bind the

share of the plaintiffs. That decree was passed within six years before the institution of the suit.

2. Nor can we accede to the contention that the suit for a declaration is barred by Section 42 of the Specific Relief Act. The plaintiffs ask in

substance that it may be declared as against the hypothecation that the decree is not binding on their share in the property and the fact that they

have impleaded the other sharers does not make it obligatory on them to sue for A general partition. We do not think the decision in

Suryanarayana Murthi v. Sammama ILR (1901) M. 504 compels us to hold otherwise.

3. The second appeal is dismissed with costs.