

(1910) 07 MAD CK 0019
In the Madras High Court

Venkatachala Reddi and Others

APPELLANT

Vs

Venkatarama Reddi and Another

RESPONDENT

Date of Decision : 25-07-1910

Acts Referred:

Citation : (1901) ILR (Mad) 665

Hon'ble Judges : Moore, J; Davies, J

Bench : Division Bench

Judgement

1. We are unable to accept the contention of the appellant's vakil that no appeal lay to the District Judge inasmuch as the District Munsif had not determined any question arising u/s 214 of the Code of Civil Procedure, for we find that the Munsif passed a definite order rejecting the application to execute the decree until it had been decided in a separate suit as to who were the legal representatives of the original plaintiff. The order of the District Judge in appeal directing such inquiry to be made in execution cannot however be upheld. The Munsif had no jurisdiction in execution to re-open the question as to whether certain persons brought on the record of the suit as representatives of the deceased plaintiff and as such made respondents in the appeal had been properly joined as parties or not. The matter was settled by the Appellate Court before passing its decree and therefore could not be questioned in execution.

2. The order of the District Judge is therefore set aside, as is also that of the District Munsif referring the parties to a suit. The District Munsif is directed to replace the application on his file and dispose of it according to law. Costs will abide and follow the result.