

**(1895) 09 MAD CK 0005**  
**In the Madras High Court**

Venkatanarasimha Naidu

APPELLANT

Vs

Papammah

RESPONDENT

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**Date of Decision :** 17-09-1895

**Acts Referred:**

**Citation :** (1896) ILR (Mad) 54

**Hon'ble Judges :** Shephard, J; Best, J

**Bench :** Division Bench

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### Judgement

1. It appears that, since the passing of the decree in 1879, no less than four applications have been made for execution, and orders have been

passed accordingly for the construction of a dam or "floor" as it is termed in the decree. These orders were passed notwithstanding the opposition

of the plaintiff and he never appealed.

2. There can be no doubt that, although, some of the terms of the decree are inserted for the protection of the defendant, it was never intended that

the defendant should execute it against the plaintiff. It is argued that the District Munsif had no jurisdiction to order execution of the decree and that

the previous orders in execution should be disregarded, and we are referred to Kalka Singh v. Parasram L.R. 22 IndAp 68. That was not a case

in which the execution of a decree was immediately in question and is therefore distinguishable from the other decisions of the Judicial Committee

which were cited.

3. Those decisions go to show that although a decree does not in terms give a certain relief, yet if it is construed in orders passed upon it as having

given that relief, it is not competent to the Court on a subsequent application to treat those orders as erroneous and put another construction on the

decree Mungul Pershad Dichit v. Griga Kant Lahiri Chowdhry L.R. 8 IndAp 123;  
Ram Kirpal Shukal v. Mussumat Rup Kuari L.R. 11 IndAp 37

and Bani Ram v. Nanhu Mal L.R. 11 IndAp 181.

4. We think those decisions are applicable to this case. We must dismiss the appeal with costs.