

Ramasami Vs. Sami and ors.

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SooperKanoon Citation : sooperkanoon.com/783734

Court : Chennai

Decided On : Aug-29-1893

Reported in : (1894)ILR17Mad96

Judge : Arthur J.H. Collins, C.J. and ;Davies, J.

Appellant : Ramasami

Respondent : Sami and ors.

Judgement :

1. We consider that the decree in Suit No. 241 of 1886 on the Mannargudi Munsif's file was a final decree inasmuch as it decreed according to the last clause of Section 92 of the Transfer of Property Act, that in case of default in payment within the stipulated time, the plaintiff was to be debarred of his right of redemption. Orders passed under Section 93 are, in our opinion, merely supplementary to the decree under Section 92, showing whether the terms of the decree have or have not been fulfilled. It is clear that in this case when the three months' time allowed in the decree had elapsed without payment being made, no extension of time for payment having been granted, the decree became a final decree without any further orders being required. That decree then being a final one after confirmation in appeal; the present suit being based on precisely the same cause of action as that suit is, of course, barred as res judicata.

2. The second appeal fails and is dismissed with costs.

