

**Ukku Vs. Kutti and anr.**

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**SooperKanoon Citation :** [sooperkanoon.com/784776](http://sooperkanoon.com/784776)

**Court :** Chennai

**Decided On :** Feb-25-1892

**Reported in :** (1892)ILR15Mad401

**Judge :** Muttusami Ayyar and ;Best, JJ.

**Appellant :** Ukku

**Respondent :** Kutti and anr.

**Judgement :**

1. The Judge finds that the sale is valid, but that the purchaser is under an obligation to convey the property to defendant on the latter paying the purchase-money in the exercise of his right of pre-emption. This is in accordance with the principle laid down in Vasudevan v. Keshavan, I.L.R. 7 Mad. 309.
2. It is then argued that though the defendant may enforce his right of preemption by instituting a suit, he cannot resist a suit for redemption on this ground. This is opposed to the decision in Kanharankutti v. Uthotti I.L.R. 13 Mad. 490 and Cheria Krishnan v. Vishnu I.L.R. 5 Mad. 198.
3. Whatever right he can assert as plaintiff is also available to him as a ground of defence.
4. The appeal therefore fails and is dismissed with costs.

5. As regards the memorandum of objections it is argued that the suit should have been dismissed and that the decree passed by the Judge is bad in law. But the decree passed appears to us to be just and proper. It gives effect to the right of pre-emption and in case of this right not being exercised within a given time allows redemption. In *Vasudevan v. Keshavan* I.L.R. 7 Mad. 309 this point was raised and considered.

6. We also disallow the objections with costs.

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