

Sami Achari Vs. Somasundram Achari

Sami Achari Vs. Somasundram Achari

SooperKanoon Citation : sooperkanoon.com/786504

Court : Chennai

Decided On : Nov-15-1882

Reported in : (1883)ILR6Mad119

Judge : Charles A. Turner, Kt., C.J. and ;Muttusami Ayyar, J.

Appellant : Sami Achari

Respondent : Somasundram Achari

Judgement :

Charles A. Turner, Kt., C.J. and Muttusami Ayyar, J.

1. The decree passed in 1866 must, in the events which have happened, be regarded as a declaratory decree in so far as it related to redemption. It declared the plaintiff entitled to redeem and to recover possession on making a certain payment. It did not declare the mortgagor would be foreclosed if he did not exercise his right of redemption. The mortgagor's right to redeem is not lost because he omitted to make the payment which was declared to be the condition of his recovering possession in the former proceedings.

2. The appeal is dismissed, but we refuse the respondent his costs, and overrule his objection with costs.