

In Re: M. Rama Moothan

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SooperKanoon Citation : sooperkanoon.com/802764

Court : Chennai

Decided On : Jan-16-1911

Reported in : 9Ind.Cas.271

Judge : Ralph Benson, J.

Appellant : In Re: M. Rama Moothan

Judgement :

Ralph Benson, J.

1. It is argued that in the proceedings before the District Munsif in 1896, the plaintiff's right to get actual possession was negatived on the ground that the 3rd defendant was a tenant of the 1st defendant, entitled as his tenant, to remain in actual possession, notwithstanding the plaintiff's right to recover possession of the jenm right from the 1st defendant. I observe that the 3rd defendant in these proceedings claimed a jenm right in the land, and resisted the plaintiff's claim to possession. The appellant's Vakil is unable to refer me to any evidence that the Munsif's decision proceeded on the footing that the 3rd defendant's possession was as a tenant of the 1st defendant. In these circumstances, I do not think that the plaintiff's having obtained symbolical possession from the 1st defendant behind the 3rd defendant's back in 1899 will save the bar by limitation. The case of Gopal v. Krishna Rao 25 B. 275 : 3 Bom. L.R. 1020 relied on by the appellant's Vakil seems to have no application to the facts of this case.

2. The appeal is dismissed.

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