

Gopalakrishnan Vs Subramonia Iyen and Another

Court: High Court Of Kerala

Date of Decision: July 18, 1961

Acts Referred: Civil Procedure Code, 1908 (CPC) â€” Section 53

Citation: (1961) KLJ 901

Hon'ble Judges: S. Velu Pillai, J

Bench: Single Bench

Advocate: C.K. Sivasankara Panicker, for the Appellant; T.S. Krishnamurthy Iyer, for the Respondent

Judgement

Velu Pillai, J.

The only contention pressed before me is that the decree is not executable against the property which has now rested in the

son, the 3rd defendant, by survivorship on the death of his father and that it is a vested right which is not affected by Section 53 of the Indian Civil

Procedure Code, the decree having been passed before that C. P. C. came into force in the concerned area. It is settled law that in execution of a

decree against the father the son's interest can be sold *Sidheshwar Mukherjee Vs. Bhubneshwar Prasad Narain Singh and Others*, . There is no

vested right which can be claimed by the son against execution. Section 53 is only a rule of procedure as held by the Supreme Court in *Pannalal*

and Another Vs. *Mst. Naraini and Others*, . The decree has therefore to be executed in accordance with the procedure prescribed from time to

time. The son has a right to question the legality of the debt in execution but in the present case he did not do so. The execution of the decree in

terms of Section 53 is valid. No other point was pressed.

This is dismissed with costs.