

(1928) 10 MAD CK 0015
In the Madras High Court

Alagarsami Naidu (dead) and Others	APPELLANT
Vs	
Ramanathan Chetti by senior paternal uncle and next friend O. Rm. O.M. Sp. Lakshmanan Chettiar	RESPONDENT

Date of Decision : 26-10-1928

Acts Referred:

Citation : AIR 1929 Mad 284 : (1929) 29 LW 551 : (1929) 56 MLJ 399

Judgement

1. The Lower Court has held that the claim is not barred by limitation. If the payee under the promissory note is the minor plaintiff, no question of limitation arises. The question therefore is, who is the payee under the note in question, Lakshmanan Chetti, the guardian, or Ramanathan Chetti, the minor?The promissory note so far as it is material to the present purpose runs thus:

Promissory note executed on the 14th January, 1920, to Lakshmanan Chetti, son of the senior paternal uncle of and guardian of minor

Ramanathan Chetti...deducting Rs. 300 paid in respect of the promissory note executed by me to Subramanian Chetti, guardian of the said

Ramanathan Chetti...the amount to be paid by me is Rs. 510.

2. Mr. Muthukrishna Aiyar, the appellant's learned Advocate contends that the real payee under this note is Lakshmanan Chetti. The question is,

on a fair construction of this document, in whose favour was it executed? Is Lakshmanan Chetti the payee, the words" following his name being

merely descriptive of him, or, is the minor the payee, of whom Lakshmanan Chetti is described as the guardian? In Subbanna v. Subbarayudu

(1925) 50 M.L.J. 125 which is the converse of this case, the test to be applied is thus stated:

The liability must be determined on the wording of the note and in each case the question is : Is the instrument so drawn in form as to make the

executant liable or the principal liable? In other words, who is the real executant of the documents? Is the executant in truth the principal although

the agent's signature appears on the bill or is the executant the agent although the principal is named?

3. In the present case, we are concerned with the payee and not with the executant, as in the case cited. But there can be no doubt that the same

principle applies. What then is the proper construction of the words in the promissory note? In the body of the note there is a reference to a prior

promissory note executed by the defendant in favour of a previous guardian of the minor. On a reading of the whole document, the reasonable

conclusion seems to be that Lakshmanan Chetti was not intended to be the payee but the minor plaintiff. In Venkatasubbarayulu v. Golla Gangulu,

C.R. Ps. Nos. 222 to 224 of 1927, a similar view was taken in regard to a promissory note where the words used in describing the payee closely

resemble the words used in this note.

4. Mr. Muthukrishna Aiyar relies upon certain observations in the case already cited in Subbanna v. Subbarayudu (1925) 50 M.L.J. 125. The

following passage occurs in the judgment in that case:

The words in the preamble being doubtful and there being no ambiguity in regard to the signature, the proper view to take is, that any one reading

the note will reasonably connect the word "we" with the names appearing at the bottom of the note.

5. The difference between that and the present case, is obvious. In that case, what was being considered was the liability of the executant, and in

the present case we are concerned with the position of the payee. One of the elements taken into consideration in that case was the manner in

which the executant signed his name. That element is necessarily wanting in the present case which relates to the case of a payee and not to the

case of an executant. But, as we have said, we are applying the same principle, as was formulated in that case.

6. We do not propose to deal with the cases cited to us at the Bar, as they are not of much assistance in construing the promissory note under

consideration. We are satisfied that the conclusion of the Lower Court is correct.

The second appeal is dismissed with costs.