
(1907) 09 MAD CK 0002
In the Madras High Court

Arunachala Pillai alias Masilamani Pillai	APPELLANT
Vs	
Sampurna Thachi	RESPONDENT

Date of Decision : 19-09-1907

Acts Referred:

Citation : (1914) 27 MLJ 485

Judgement

1. The appellant and his grandfather were members of a joint family and the grandfather had a third wife who had borne him three daughters; Ex. I is an alienation by the grandfather of a portion of the family properties in favor of the 3rd wife reserving the income to himself for life, and is expressed in the deed to be made out of the grandfather's share and excluding the plaintiff's share. The properties covered by Exhibit I were worth about Rs. 3,000 and the remaining properties which are now in the possession of the plaintiff are worth Rs. 7,000 or 8,000. According to the finding of both the lower Courts the deed Ex. I was executed by the grandfather with the consent both of the mother and the maternal uncle of the plaintiff who was then a minor. There has been a good deal of argument before us as to whether Ex. I itself effects a partition between the grandfather and the plaintiff, but in our opinion it is unnecessary to consider this question. It is clear that it was open to the grandfather, if he had so chosen and without anyone's consent to effect a partition and leave the whole of his half-share to his 3rd wife and her daughters, and it was in our opinion clearly for the benefit of the minor for his guardians to avoid an eventuality so injurious to his interests by consenting to the alienation effected by Ex. I. If the plaintiff had been of full age his consent would undoubtedly have been sufficient to validate Ex. I and in the circumstances

we think his guardians were competent to consent for him. This is in effect the conclusion at which the District Judge has arrived and the second appeal must be dismissed with costs.