
(1914) 07 MAD CK 0016
In the Madras High Court

Bangarasami Aiyangar

APPELLANT

Vs

A.R.A.A.R.S.M. Somasundaram Chettiar and Others

RESPONDENT

Date of Decision : 16-07-1914

Acts Referred:

Citation : (1914) 1 LW 584 : (1914) 27 MLJ 176

Judgement

1. The question whether when a document which recites that it was executed by A, B and C is executed by A and B alone, whether in such a

case, A and B agreed to be liable under it only if C also joined in executing it is a question of fact to be decided on the circumstances of each

particular case Sivasami Chetty v. Sevagan Chetti ILR (1901) M. 389 and Krishnama Chariar v. Narasimha Chariar ILR (1908) M. 114. In this

particular case, the Lower Appellate Court has after considering the circumstances and probabilities arrived at the conclusion that the 1st

defendant (the appellant before us) agreed to be liable under Exhibit A notwithstanding that one Desika Chariar mentioned in the recital as a co-

executant did not sign it. Though it must be admitted that the Judgment is not quite satisfactory, we cannot say that there is no evidence on which

the Lower Appellate Court could have arrived at the conclusion at which it arrived. The plaintiffs 1st witness says that he made a demand on the

1st defendant for money due under the particular pronote and the 1st defendant promised to pay up sum, thus impliedly admitting that his liability

under it was not made conditional on Desikachariar's joining in its execution. We are not satisfied that the Subordinate Judge has misconstrued the

documentary evidence in any material particular.

2. We, therefore, dismiss this second appeal with costs.