

(1929) 08 MAD CK 0029
In the Madras High Court

Challapalli Appalaswami and Another	Vs	APPELLANT
Konduru Appalaswami and Others		RESPONDENT

Date of Decision : 01-08-1929

Acts Referred:

Registration Act, 1908 — Section 17

Citation : 124 Ind. Cas. 606

Hon'ble Judges : Anantakrishna Iyer, J

Bench : Single Bench

Judgement

Anantakrishna Iyer, J.—The lower Appellate Court reversed the decision of the first Court relying on the decision of the Privy Council

reported as Dyal Singh v. Indar Singh 98 Ind. Cas. 508 : 53 I.A. 214 : 551 M.L.J. 788 : AIR 1926 P.C. 94 : 24 A.L.J. 807 : (1926) M.W.N.

602 : 3 O.W.N. 634 : 24 L.W. 396 : 44 C.L.J. 97 : 7 P.L.T. 661 : 28 Bom. L.R. 1372 : 31 C.W.N. 125 : 28 P.L.R. 10 (P.C.) where their

Lordships held that an agreement of sale, wherein payment of premium, or whole or part of the consideration, amounting to Rs. 100 or more is

acknowledged or recited, is inadmissible in evidence if not registered. Subsequent to that decision, the Indian Legislature has interfered, and by Act

II of 1927, which in express terms is said to be retrospective, the Legislature has restored the law relating to the admissibility of such documents to

the law as it was understood here prior to the above Privy Council decision. An explanation has been added to Section 17 by the Registration Act

II of 1927 which is to the following effect:

A document purporting or operating to effect a contract for the sale of Immovable property shall not be deemed to require, or ever to have

required registration, by reason only of the fact that such document contains a recital of the payment of an earnest money or of the whole or any part of the purchase money.

2. That being so, the ground on which the lower Appellate Court reversed the decision of the first Court is no longer available. I accordingly

reverse the decision of the lower Appellate Court and. remand the appeal to that Court for disposal according to law.

3. Costs will abide the result. Standup in respect of the second appeal memorandum will be refunded to the appellant.