
(1892) 10 MAD CK 0003
In the Madras High Court

Channamma and Another

APPELLANT

Vs

Ayyanna and Another

RESPONDENT

Date of Decision : 03-10-1892

Acts Referred:

Citation : (1893) ILR (Mad) 283

Hon'ble Judges : Wilkinson, J; Muttusami Ayyar, J

Bench : Division Bench

Judgement

1. It is argued that the letter, Exhibit A, contains merely a proposal to borrow and does not amount to an unconditional undertaking to pay and we have been referred to a case, Dhondbhat Narharbhat v. Atmaram Moreshvar ILR 13 Bom. 669. That case is not in point, because the document did not contain, as Exhibit A does, any words indicative of the writer's intention, that if the addressee consented to make the loan the letter itself should operate as a security for repayment. The use of the words "I will obtain back this letter" and "you will lend on the strength of this letter, indicate the intention of Ayyanna that the document should be retained by plaintiff's husband, if he sent the money as an unconditional undertaking to pay back the money on a certain date. The case is similar to one, in which a promissory note is sent along with a letter applying for a loan with the intention that the promissory note should be retained if the loan is made. The mere fact that the intention that the document should operate as a promissory note only in case the loan is made does not deprive Exhibit A of its character as such when the loan is actually made. In Nandan Misser v. Chatterbati 13 B.L.R.App. 33 the use of the words "take back" were held sufficient to indicate an intention that the document should

operate as a security for repayment. We see no reason to interfere with the discretion of the Courts below as to costs.

2. Both second appeal and memorandum of objections are dismissed with costs.