
(1940) 08 MAD CK 0003
In the Madras High Court

Chittapragada Veerraju and Another

APPELLANT

Vs

Muppala Rayanim Dora Garu and Others

RESPONDENT

Date of Decision : 22-08-1940

Acts Referred:

Citation : AIR 1940 Mad 940 : (1940) 52 LW 674 : (1940) 2 MLJ 758

Hon'ble Judges : Wadsworth, J

Bench : Division Bench

Judgement

Wadsworth, J.—This petition arises out of an application u/s 19 of Madras Act IV of 1938. The applicants, who are the petitioners here,

sought to scale down a decree dated 26th September, 1936, passed on a mortgage of 8th November, 1920. The mortgage was for a sum of Rs.

5,570, made up by the discharge of four earlier promissory notes, the principal of which totalled to Rs. 4,300, with interest thereon and a small

fresh advance. Towards this mortgage there were three payments before suit. On 5th April, 1923, a sum Rs. 1200 was paid and appropriated for

interest and on 6th June, 1923 a sum of Rs. 400 was paid and of this sum Rs. 211-14-0 were appropriated for interest and the balance for

principal. On 4th October, 1924, a payment o-f Rs. 3,367 was made and the endorsement is that it was made towards principal and interest of the

debt; that is to say, there was apparently no specific appropriation towards either principal or interest. On the basis of our previous decisions, the

decree has clearly to be scaled down in the following way. The principal will be Rs. 4,300, the principal of the original note's renewed in the

mortgage. The payments actually appropriated before 1st October, 1937, will stand appropriated. The payment made on 4th October, 1924,

which has not been specifically appropriated will be disregarded in calculating the amount of interest outstanding on 1st October, 1937, unless it can be established that there has been a specific appropriation before 1st October, 1937, no fresh evidence being admissible. After calculating the amount of interest outstanding on 1st October, 1937, and treating it as discharged, the balance of the debt will be scaled down on the basis that the principal remaining bears interest at the rate Laid down in Section 12 from 1st October, 1937, and the interest on costs will be scaled down with regard to the provisions of Section 9; that is to say, interest will run at 5 per cent, per annum up to 22nd March, 1938, and thereafter at the decree rate of six per cent.

2. The petitioner is entitled to his costs in revision from respondents 1 and 2. The application is remitted to the lower Court for disposal in the light of this judgment.