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(1914) 01 MAD CK 0023

In the Madras High Court

Gopala Aiyangar — APPELLANT

Vs

Venkatakrishna Aiyangar, Narasimha Aiyangar, Gopala Aiyangar and Krishnaswami by Guardian — RESPONDENT

Date of Decision : 23-01-1914

Acts Referred:

Citation : (1914) 26 MLJ 224

Judgement

1. The promissory note sued upon is executed in favour of the deceased Venkata Varada Aiyangar who has left a widow. The suit is brought by

the surviving members of the family to recover the debt on the ground that the debt is due to the family and the bond is taken in the name of the

deceased on behalf of the family. There is no finding that the debt was due to the family but it is found that the promissory note was taken for the

joint benefit of the 1st plaintiff and the deceased, who constituted "" a family partnership"" and therefore the 1st plaintiff as the survivor is entitled to

sue. As the bond is taken only in the narne of Venkata Varada Aiyangar and it is not found to be for the benefit of the family, we are of opinion

that the 1st plaintiff is not entitled to maintain the suit, Subba Narayana Vaithiyar v. Ramaswami Iyer ILR (1906) M. 88.

2. We must therefore set aside the decree of the learned Judge and dismiss the suit. Each party will bear his own costs throughout.

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