

(1925) 01 MAD CK 0070
In the Madras High Court

Govindaswami Pillai

APPELLANT

Vs

Govinda Padayachi

RESPONDENT

Date of Decision : 07-01-1925

Acts Referred:

Citation : (1925) 21 LW 684 : (1925) 48 MLJ 678

Hon'ble Judges : Madhavan Nair, J

Bench : Division Bench

Judgement

Madhavan Nair, J.—Defendant is the appellant. The question in this case is, whether the batta application, dated 18th September, 1918, is a step-in-aid of execution. The application is termed " Process Application " and it is to be seen from it that the batta is paid " to attach the properties in the house of the defendants " and " it is requested that Re. 1 may be received for the above purpose. " In the left-hand margin of the application I find the words " Order for attachment of moveables under Order 21, Rule 43. " In these respects the application in this case is quite different from the one in A.L.A.R. Arunachalam Chettiar, through his Authorised Agent, Pichappa Chettiar Vs. Latchumanan Chettiar and Others, which appears on examination to have been a simple " batto memo. " and nothing more. The decision in that case that such a memo. does not amount to a step-in-aid of execution cannot apply to this case. In my view there are sufficient indications in the process application to show that the applicant in effect asked for attachment. In this view the case is governed by Vijiaraghavalu Naidu v. Srinivasalu Naidu ILR (1905) M 399. The decision in Alagamuthu Pillai v. Devasagaya Fernandez (1915) 3 LW 34 to the effect that a batta memo which mentions that batta is paid for the issue of notice to the judgment-debtor u/s 248, Civil Procedure Code, is an application to take a step-in-aid of execution may also be referred to in support of the contention that the process application in this case is a step-in-aid of execution. The Lower Court's order is therefore right and I dismiss this appeal against appellate order with costs.