
(1925) 01 MAD CK 0005
In the Madras High Court

Govindaswami Pillai

APPELLANT

Vs

Govinda Padayachi

RESPONDENT

Date of Decision : 17-01-1925

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 21 Rule 43

Citation : AIR 1925 Mad 880 : 89 Ind. Cas. 894

Hon'ble Judges : Madhavan Nair, J

Bench : Single 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. I may be received for the purpose."" In the left hand margin of the application I find the

words, "" order for attachment of moveables under Order XXI, Rule 43.

2. In these respects the application in this case is quite different from the one in Arunachalam Chettiar v. Latchmanan Chettiar 82 Ind. Cas. 497 :

47 M.L.J. 537 which appears on examination to have been a simple ""batta 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 28 M. 399.

The decision in Alagamuthu Pillai v. Devasagaya Fernandez 19 M.L.T. 146 : (1916) 1 M.W.N. 78 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, C.P.C., 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.