(1923) 09 MAD CK 0028

In the Madras High Court

Jeladi Burayya and Others APPELLANT

Vs

Ponduri Ramayya and Another RESPONDENT

Date of Decision : 26-09-1923

Acts Referred:

Citation : (1924) ILR (Mad) 449 : (1924) 19 LW 67 : (1924) 46 MLJ 49

Judgement

1. In this case defendants 2 to 5 are the appellants. They are the heirs-at-law of one minor Tirupatayya who died some time ago. The plaintiff

brings this suit for recovering from the 1st defendant personally and from the minor''s estate in the hands of defendants 2 to 5 the amount due under

the promissory note, Ex. A, which is a renewal of Exs. A-1 and A-2. It is found by the learned District Judge that the money due under the

promissory note was borrowed for the purpose of paying the purchase money for certain lands which the guardian of the minor purchased for him.

The question we have to decide is whether the money so borrowed for purchasing lands--we will assume that the purchase was for the benefit of

the minor--constitutes a debt really binding on the estate of the minor. There can be no doubt that there was no necessity to borrow this money at

all, nor to buy the lands. The District Judge has found that there was no necessity so to borrow; but he seems to have thought that, as it might be

for the benefit of the minor, the minor''s estate would be liable. We are unable to agree with this proposition. The guardian had no right whatever to

involve the ward''s estate in debt for the purpose of purchasing lands to be added to his estate. It has been so decided in this Court in several

cases--vide Subramania Nadan, Minor by his Maternal Uncle and Next Friend Kuthalalinga Nadan Vs. Ramasami Nadan and Others, and

Subramania Chetty Vs. Chidambara Mudali, . We must, therefore, hold that the debt in this case due under the promissory note sued upon is not

binding on the minor''s estate or the heirs of the minor, and the decree passed against the minor''s estate in the hands of his heirs must be set aside.

All that the plaintiff is justly entitled to is to have a decree against the lands actually purchased with the money advanced by him. There will,

therefore, be a decree in favour of the plaintiff only against the lands covered by Ex. I, the purchase-money under which the promissory note

amount was borrowed. The lower Court has refused a personal decree against the 1st defendant. There is no appeal against that portion of the

decree and, therefore, we cannot pass any orders against the 1st defendant in this appeal.

2. As regards costs, the right order to pass in this case is to give defendants 2 to 5 their full costs throughout, the plaintiff paying such costs. As

between the plaintiff and the 1st defendant, there will be no order as to costs in the second appeal.

