

(1921) 02 MAD CK 0038
In the Madras High Court

Kancherla Kanakayya

APPELLANT

Vs

Mulpuru Kotayya and Others

RESPONDENT

Date of Decision : 04-02-1921

Acts Referred:

Citation : AIR 1921 Mad 587 : (1921) 13 LW 637 : (1921) 41 MLJ 75

Judgement

1. The question in this appeal is whether the next friend of a minor can after obtaining a decree in the minor's favour transfer that decree to a third party without the leave of the Court.
2. A transfer involves an agreement between the transferor and the transferee, and under Order 32, Rule 7 every agreement by a next friend on behalf of a minor with reference to the suit in which he acts requires the leave, of the court.
3. There is no reason for reading the word "suit" in this rule as meaning only a suit in which a decree has not been passed.
4. We do not find anything in the context to suggest this, and we must dissent from the opinion of Abdur Rahim and Odgers, JJ. in Govindarajulu Naidoo v. Ranga Rao (1920) 40 M.L.J. 124 on this point and follow that of Sadasiva Ayyar and Moore, JJ., in Shaik Davud Rowthcr v. Paramasami Pillai (1915) 31 M.L.J. 207 which adopts a contrary view and does not seem to have been brought to the notice of the learned Judges who decided Govindarajulu Naidoo v. Ranga Row (1920) 40 M.L.J. 124 .
5. There is nothing to prohibit the court giving its sanction at any stage. The appeal will be remanded to the District Munsif of Nuzwid for consideration whether the transfer will be for the benefit of the minor and for passing orders accordingly. Costs in this and in the Lower Appellate Court will abide the result.