
(1911) 10 MAD CK 0017
In the Madras High Court

Karuthappa Rowthan

APPELLANT

Vs

Bava Moideen Saib

RESPONDENT

Date of Decision : 06-10-1911

Acts Referred:

Citation : (1913) ILR (Mad) 370 : (1913) 24 MLJ 513

Judgement

1. We are clearly of opinion that Exhibit A is a promissory note. It is called a promissory note in the phraseology of the document. The executant

states that he agreed on the date of the promissory note to pay the amount of Rs. 600 found due on demand. The argument that it is not a

promissory note is based on the form of the sentence which is that the amount which the executant agreed to pay on demand for the price of cloths

purchased by him on the date of the document was Rs. 600; but we have got the important fact that the document begins with saying that it was

the promissory note executed by the executant in favour of the appellant's transferor. In other words we may say that not only does the document

say that the amount which the executant agreed to pay on demand was Rs. 600, but that Exhibit A was a promissory note for it. It appears to us to

be impossible to hold that such an instrument can be read otherwise than as a promissory note. It is no doubt true that the question whether an

instrument is a promissory note or not should be judged by the words used, and that the instrument must contain in words an unconditional

undertaking to pay a sum of money, and it is not enough that the substantial effect of the instrument would be to make the executant liable to pay a

sum of money. Judging this instrument by this test, we have no hesitation in saying that the executant unconditionally promised by it to pay the

amount of Rs. 600 to the appellant's transferor.

2. Several cases have been cited by the learned Advocate-General viz., Tirupathi Goundan v. Rama Reddi ILR (1987) M. 49, Govind v. Balvant

Rao ILR (1987) B. 986, Horn v. Bedfearn (1838) 4 Bingh N.C. 433 7 J.C.P. 214 White v. North (1849) 3 Exch Rep. 689 18 L.J. Ex. 316 in

support of his argument. But in all these cases there was no language of promise to pay a sum of money. There was an acknowledgment of receipt

of money or of indebtedness and an admission that the executant was accountable to the other party. In one case the document said "accountable

for the amount with interest. In another case it said accountable for the money so many months afterwards". The important distinction between

them and the present case is that there was no promise in terms to pay. On the other hand in another case cited by the learned Advocate-General

Morris v. Lee (1725) 92 E.R. 409 the executant promised to be accountable and the instrument was held to be a promissory note. Here not only

has the executant promised to pay but he has said that the instrument is his promissory note for the amount due. We dismiss the second appeal

with costs.