
(1934) 02 MAD CK 0044
In the Madras High Court

Korupolu Somu Naidu

APPELLANT

Vs

Mammuluri Sanyasayya and Others

RESPONDENT

Date of Decision : 05-02-1934

Acts Referred:

Citation : AIR 1934 Mad 391 : (1934) 39 LW 520

Hon'ble Judges : Curgenvan, J

Bench : Division Bench

Judgement

Curgenvan, J.—I think it is clear that the plaintiff is not an endorsee of the note, because the only person who could endorse it is defendant 2, as holder, or some one, as for example the Court, on the holder's behalf. But the Court could only have acted, not on her behalf but on behalf of the judgment-debtor defendant 3. Therefore the Court's endorsement was not valid.

2. The question therefore resolves itself into this, whether a beneficial owner who is not the holder or an endorsee from the holder, can sue. There has been some difference of judicial opinion on this point, but so far as this case is concerned, I must be guided by the law as laid down by this Court. In Subbu Narayana Vaithiyar v. Ramaswami Aiyar (1907) 30 Mad. 88 a Bench of three learned Judges has answered the question without qualification in the negative. The view has been criticised as obiter, and has been differed from in some other Courts : see Surajman Prasad Misra Vs. Sadanand Misra and Others, ; Brojo Lal Saha Banikya Vs. Budh Nath-Pyari Lal Das, and Sewa Ram Vs. Hoti Lal and Another ; but so long as no dissent from it is expressed by a Bench of this Court it may properly be accepted as guidance by the Courts below. It may perhaps appear to some too that it is more in accordance with the principles of the Negotiable Instruments Act than the less strict view adopted in the decisions above cited. Accordingly, even were this a second appeal, I should be disposed to hold that the lower Court had not incorrectly applied the law. As it is a revision petition no proper ground whatever for interference can exist.

3. The Civil Revision Petition is dismissed with costs.