

(1922) 11 MAD CK 0034
In the Madras High Court

Kosalai Rama Pillai and Others

APPELLANT

Vs

Pulosthiam Pillai

RESPONDENT

Date of Decision : 24-11-1922

Acts Referred:

Contract Act, 1872 — Section 25(2)

Citation : AIR 1923 Mad 330 : 72 Ind. Cas. 774

Hon'ble Judges : Wallace, J

Bench : Single Bench

Judgement

Wallace, J.—I am quite clear that in these cases before the Village Munsif there was no contract on which a suit could be. The plaintiffs only

allege that according to a village custom subscriptions are raised from persons of the caste of plaintiff and defendants for conducting a festival. It is

not alleged that it was in consequence of any prior agreement by the defendants, plaintiff incurred the obligations, nor, so far as appears from the

records, is there any proof therefor. The principle quoted by respondents in Kedarnath Bhattacharji v. Gane Mahomed 14 C. 64 : has, therefore,

no application. All that is relied upon is a subsequent promise by petitioners to subscribe for the expenses already incurred by plaintiff and it is,

also neither alleged nor proved that there was any promise by petitioners to compensate plaintiff for something which plaintiff had already

voluntarily done for the petitioners, hence Section 25(2) of the Indian Contract Act will not avail.

2. So far as appears on these plaintiffs and the judgment of the Village Munsif, the promise by petitioners to pay was purely voluntary for no legal

consideration and payment is not, therefore, enforceable in law as payment of money due under a contract. Hence the Village Munsif, u/s 13 of the

Village Courts Act, has no jurisdiction to entertain the complaints and his decrees are contrary to law.

3. Obviously, when decrees of Subordinate Courts are contrary to law, this Court should interfere, therefore, reverse and set aside the order of

the District Munsif dismissing the petitioner's petitions before him and set aside the decrees of the Village Munsif in these suits. Each petitioner will

get his costs here and in the lower Court and share the Vakil's fee fixed at Rs. 50 (equal to Rs. 10 for each case).

4. This order will not bar plaintiff from framing proper complaints on his alleged cause of action and presenting them in the proper Court.