
(1910) 02 MAD CK 0021
In the Madras High Court

Malikka Meladathil Karnavan Kunji Achammal	APPELLANT
Vs	
Malikka Meladathil Karnavan Kunji Achammal	RESPONDENT

Date of Decision : 02-02-1910

Acts Referred:

Court Fees Act, 1870 — Section 7(c)

Citation : (1910) 20 MLJ 791

Judgement

1. In this case the plaintiffs Nos. 2 to 25 were through their guardians parties to the deed regarding which the declaration is sought. If a declaration were given that the deed is not binding on these plaintiffs the result would be the same as if the deed were cancelled. As observed in Chingacham Vitil Sankaran Nair v. Chingacham Vitil Gopal Menon ILR (1906) M. 18 the question whether Section 7, Para IV, Clause (c) of the Court Fees Act applies or not must depend on the substance of the claim and not on the mere words which a plaintiff may choose to introduce into his plaint with reference to it. The prayer, so far as plaintiffs Nos. 2 to 25 are concerned, must, therefore, be taken to be a prayer for the cancellation of the deed, and the Subordinate Judge was right in holding that ad valorem fee must be paid. We therefore dismiss this appeal with costs which will be calculated in both Courts in the manner usual in a suit capable of valuation as this suit clearly is. The objection memo is allowed with costs.