

(1907) 11 MAD CK 0006
In the Madras High Court

Mani Bai, an infant by her next friend Rukmani Bai	APPELLANT
Vs	
Lodd Govind Doss	RESPONDENT

Date of Decision : 29-11-1907

Acts Referred:

Citation : (1908) 18 MLJ 155

Judgement

1. In this case an order has been made requiring the next friend of a female infant plaintiff to give security for the costs of the suit. It is not contended that the order can be supported unless there is jurisdiction to make the order u/s 380 of the Code of Civil Procedure. We do not think the words ""such plaintiff"" in the second paragraph of the section can be construed as applying to the infant plaintiff's next friend, and there is no evidence in the present case that the plaintiff does not possess sufficient Immovable property within British India. Assuming, however, that the Court would have jurisdiction to make the order if satisfied that the next friend ""did not possess sufficient Immovable property,"" we are of opinion that the order should not have been made in the present case. We agree with the decision in Bai Porebai v. Devji Meghji ILR (1898) B. 100 that in the case of infant plaintiffs, unless the circumstances are exceptional the English practice, under which an infant plaintiff could not be required to give security for costs, should be followed. We do not think the circumstances of the present case are of so exceptional a character as to warrant the making of the order.

2. We must accordingly set aside the order with costs here and in the Court of first instance.