
(1925) 09 MAD CK 0079
In the Madras High Court

Meenakshisundara Nachiar

APPELLANT

Vs

Al. V.R.P. Veerappa Chettiar

RESPONDENT

Date of Decision : 28-09-1925

Acts Referred:

Contract Act, 1872 — Section 70

Citation : 92 Ind. Cas. 838

Hon'ble Judges : Viswanatha Sastri, J

Bench : Single Bench

Judgement

Viswanatha Sastri, J.—Second appeal by defendant against the decree of the Subordinate Judge, Ramnad, in A.S. No. 100 of 1921.

2. The, only question which has to be considered in this appeal is, whether the Courts below were right in decreeing the plaintiff's claim for

contribution based upon Section 70 of the Indian Contract Act. A common channel irrigated the lands of the plaintiff and the defendant. The case

of the plaintiff was that he repaired this channel after informing the defendant, and that the defendant was bound to contribute towards the repairs

made. Both the Courts found that the repairs were done, that the defendant was benefited by the repair, and that the plaintiff did not intend to bear

all the expenses himself.

3. It was urged before me on the authority of the decision in Sundara Aiyar v. Ananthapadbhanaba Aiyar 70 Ind. Cas. 405 AIR 1923 Mad. 64

that the plaintiff could not succeed, because he was also benefited by the act. Observations in Viswanadha Vija Kumara Bangaroo v. R.G. Orr 45

Ind. Cas. 786 were also relied upon. Both the Courts have followed Damodara MadaUar v. Secretary of State for India 6 Ind. Dec. 410 which

was a similar case. On the findings of the first Court and also on the findings of the lower Appellate Court, it appears to me to be clear that, all the circumstances needed for the application of Section 70 of the Contract Act have been found to exist.

4. I, therefore, dismiss the second appeal with costs.