
(1914) 04 MAD CK 0030
In the Madras High Court

Muthusamy Aiyar

APPELLANT

Vs

Solai Konan alias Ramiah Konan

RESPONDENT

Date of Decision : 17-04-1914

Acts Referred:

Citation : AIR 1915 Mad 48(1) : 25 Ind. Cas. 679 : (1914) 26 MLJ 597

Hon'ble Judges : Seshagiri Aiyar, J

Bench : Division Bench

Judgement

Seshagiri Aiyar, J.—The finding in this case is that the plaintiff was a benamidar for Kamakshi Ammal. The issue raised in the case covers

this question and there is evidence upon which the Court below was entitled to come to the conclusion that the defendant executed the document

to the plaintiff at the instance of Kamakshi and on her behalf. I accept this finding. Then Mr. Seshagiri Sastri argues that as the rent deed was

executed to the plaintiff payment to Kamakshi Ammal cannot absolve the defendant from liability to him and he relies upon the authority of Jai

Narayan Bose v. Kadimbini Dasi (1869) 7 BLR 728 (foot note) for that position. There has been a conflict of views in regard to this question and

so far as this High Court is concerned in Kuthaperumal Rajali v. The Secretary of State for India ILR (1906) M. 245 the learned Judges have

come to the conclusion that the real owner is entitled to maintain a suit in his own name for recovery of property or money. Following that decision

Mr. Justice Wallis in Kuppu Konan v. Thirugnan Sammandam Pillai ILR (1908) M. 461 has held that the plea of estoppel available against a

tenant is only in favour of the real owner and not in favour of the benamidar. I entirely agree with this view. The money having been paid to

Kamakshi the defendant is discharged from liability to the plaintiff and the suit was rightly dismissed by the District Munsif and I dismiss this petition with costs.