

(1920) 07 MAD CK 0003
In the Madras High Court

Muthuveerappa Chetty alias Vellayappa Chetty	APPELLANT
Vs	
Adikappa Chetty (Dead) and Others	RESPONDENT

Date of Decision : 14-07-1920

Acts Referred:

Citation : 59 Ind. Cas. 472

Hon'ble Judges : John Wallis, C.J.;Seshagiri Aiyar, J

Bench : Division Bench

Judgement

John Wallis, C.J.—The plaintiff in this case is a principal and the defendant an agent. The plaintiff having a claim against the defendant

preferred a complaint against him for misappropriating bangles and had him arrested, and he was afterwards bailed. Then the defendant was

induced to appoint an arbitrator and the plaintiff appointed another arbitrator to settle their differences, and the award of the arbitrators was that

the defendant should pay the plaintiff Rs. 10,000 in full satisfaction of all the plaintiff's claims and that the prosecution should be dropped. The

defendant paid Rs. 7,000 and gave a hundi for Rs. 3,000 at the time. Then he refused to pay the balance of Rs. 3,000 and successfully sued to

recover the Rs. 7,000 which he had paid on the ground that it was obtained by (sic). It was held by this Court, reversing the decision of the

Subordinate Judge, that he had been induced to consent to this arbitration by coercion and that the money so obtained from him in the

circumstances which I have mentioned must be refunded. Now, the plaintiff-principal accepting that state of things brings this suit and alleges that

the agreement evidencing the settlement of the 1st defendant's agency accounts having been annulled the cause of action with respect to delivery

by the let defendant of accounts after due adjustment and verification has accrued to the plaintiff afresh. That is the plaintiff's case.

2. The defendant pleaded that there had been no arbitration and no award at all. The Subordinate Judge finds that there was no binding agreement

to refer to arbitration which is not questioned but he mentions that the findings of fact of this Court in the other suit were accepted by both the

parties, and included findings that there had in fact been an arbitration and a payment by defendant pursuant to it. The result of the previous suit

was that the present plaintiff had to pay back the sum which he had accepted pursuant to the arbitration from the defendant in full satisfaction of all

his claims against the defendant. The question then is, whether, as the result of the previous suit, he has not acquired a fresh cause of action, in the

nature of his original cause of action, for an account which was satisfied so long as the adjustment to which I have referred stood. In my opinion he

has.

3. It is unnecessary to refer to all the cases which were cited before us. There is a case in *Musammat Raneesurno Moyee v. Shooshee Mokhee*

Burmonia 11 W.R.P.C. 5 : 20 E.R. 331, a decision of the Privy Council which has been explained by their Lordships in *Euro Pershad Boy v.*

Gopal Das Butt 4 Ind. Dec. 820. The latter case contains a clear statement of the principle which is applicable to this case, at page 259. Their

Lordships say: "'The effect of that case in *Musammat Raneesurno Moyee v. Shooshee Mokhee Burmonia* 12 M.I.A. 244 :20 E.R. 331, may be

very shortly stated. The Zemindar brought a certain *patnitaluq* to sale, and sold it to a purchaser who was put in possession of it, and out of the

purchase-money the arrears of rent were paid. Subsequently this sale was set aside for irregularity. The Zemindar had to refund the purchase

money received by her, and the *patnidar*, who succeeded in setting it aside, obtained also the *mesne profits* for the time during which he was

ousted, Under those circumstances, this Committee, whose judgment was delivered by Sir James Colvile, observe: "it is clear that until the sale had

been finally set aside, she"--that is, the plaintiff--was in the position of a person whose claim had been satisfied and that her suit might have been

successfully met by a plea to that effect." In other words, the effect of the judgment of this Board is, that under the peculiar circumstances, the

patnidar having recovered possession, together with mesne profits, it was equitable that he should pay the amount of rent which was in arrear; but that amount of rent did not accrue until the sale of the paint had been set aside, and, therefore, until that time that Statute could not run. Applying those observations to the present case, it is equitable that the plaintiff should be allowed to prefer a fresh claim seeing that he has been deprived of the satisfaction which he had originally obtained. The fact that satisfaction was obtained by coercion was good reason for ordering the money to be refunded, but is no reason for depriving the plaintiff of all remedy on his original claim. In the case cited, the Privy Council say that a fresh claim for the arrears of rent accrued when the patni sale was set aside, and that until the patni sale had been set aside the Statute could not run. That, in my opinion, amounts to saying that a fresh cause of action arose. Both in that case and in this the Statute ran as against the original claim. But when the original claim was satisfied there was an end of the Statute running in respect of that cause of action, and on the annulment of that satisfaction a fresh cause of action arose and the Statute began to run again. If there was a fresh cause of action this suit is in time, whatever Article is applicable. The appeal, therefore, fails and is dismissed with costs.

Seshagiri Aiyar, J.

4. I agree.