

(1909) 02 MAD CK 0027
In the Madras High Court

N. Veerasalingam

APPELLANT

Vs

Sathapally Sathirasu

RESPONDENT

Date of Decision : 22-02-1909

Acts Referred:

Citation : 1 Ind. Cas. 552

Hon'ble Judges : Sankaran Nair, J; Munro, J

Bench : Division Bench

Judgement

1. The plaint alleges that the defendant, agreed to pay to the plaintiff, Rupees sixty, upon which the plaintiff was to transfer pattahs to the defendant, and that the defendant, asked to pay the Rs. 60 and take the transfer, failed to do so. The plaintiff, therefore, sued to recover the sum of Rs. 60 which the defendant had agreed to pay under the contract. We think there can be no doubt that the suit as thus brought is one for specific performance of the contract. Fardunji Edalji v. Jamsedji Edalji 28 B. 1 seems to us to have no bearing on a case like the present. The Small Cause Court has, therefore, no jurisdiction to try the suit. We reverse the decree of the learned Judge, and order the plaint to be returned for presentation to the proper Court. The parties will bear their own costs throughout.