
(1933) 11 MAD CK 0021
In the Madras High Court

Nachimuthu Ammal

APPELLANT

Vs

Sathivadivel Muthuswamy Maniagarar and Another

RESPONDENT

Date of Decision : 09-11-1933

Acts Referred:

Citation : AIR 1934 Mad 273 : (1934) 39 LW 496

Hon'ble Judges : Pandalai, J

Bench : Division Bench

Judgement

Pandalai, J.—The only point in these second appeals is one of limitation which depends upon the character of the appellants' claim which

arises out of Ex. A, a document called a settlement deed, and dated 9th July 1903, whereby the defendant's grand-father Haraharaswamy

Maniagarar settled Rs. 15,000 worth of family properties upon his son Nithyananda Muthuswami Maniyagarar then a minor and retained for

himself family properties worth Rs. 7,800 odd and also directed the son to pay to each of his three unmarried daughters, of whom the present

appellants are the first, namely Nachimuthu Ammal and the third Andi Ammal, Rs. 500 each in the shape of moveable properties on their attaining

majority. In the suits which were brought by these daughters for Rs. 500 each, both parties seem to have wandered in a maze of legal intricacies

and attempted to get out of their imaginary difficulties in a variety of ways. The plaintiffs conceived that they had to show how the suits were not

barred and for it alleged various imaginary payments of so-called interest and so forth all of which have been found against. The defendants on the

contrary tried to avoid the claim by setting up various imaginary payments all of which have also been found against. The District Munsif decreed

the claims but the learned Subordinate Judge on appeal agreeing with the District Munsif on his finding of fact has dismissed the suits on the ground of limitation. That is the only question DOW before me.

2. Reading the document Ex. A, it is clear that this was an instance of a family settlement in which a trust in favour of three unmarried daughters

was created in respect of three sums of Rs. 500 each. All the elements of a trust are here present. The trustor was the owner at any rate of the

property which he gave to the daughters, in the sense that he was authorized by Hindu law to make provision in favour of unmarried daughters.

The trustee was the son who, through his guardian, the trustor himself accepted the trust, and retained the property subject to the obligations till he

died in 1923. The plaintiffs (daughters) are the beneficiaries. I see nothing of an indefinite character as is now contended to make the provision

invalid. Sundararaja Iyengar v. Lakshmi Ammal AIR 1914 Mad. 95 is a precedent almost exactly similar, where Oldfield, J., held that a provision

in a partition deed providing for the expenses of an unmarried daughter's nuptials and other ceremonies to be paid by the sons who took the

properties in shares constituted a trust in favour of the daughter. Following that precedent I hold that this suit was not affected by any period of

limitation.

3. The decrees of the lower Court are therefore reversed and those of the District Munsif restored with costs in both this and the lower appellate

Court, with the variation that the decrees will be against the properties in Ex. A, in the hands of the defendant instead of against him personally.