

(1913) 02 MAD CK 0017
In the Madras High Court

Narahari Sahu and Another

APPELLANT

Vs

Sira Korithan Naidu and Others

RESPONDENT

Date of Decision : 19-02-1913

Acts Referred:

Transfer of Property Act, 1882 — Section 43

Citation : 19 Ind. Cas. 881 : (1913) 24 MLJ 462

Judgement

1. The question for decision in this second appeal is whether the plaintiff who purchased the property in question from the holder of a service Inam, who was prohibited by law (Section 5 of Act VI of 1895) from alienating the property can claim a valid title to it on the ground that the Inam was subsequently enfranchised and a patta for the land was granted to the alienor. The principle of Section 43 of the Transfer of Property Act has no application to such a case, where the invalidity of a transfer is due merely to the transferor not having a title or having only a defective title, the subsequent acquisition of a good title would enable the transferee to claim the benefit of the title acquired under the rule laid down in the section, but it can have no operation when the alienation is forbidden by law on grounds of public policy. *C. Ramasami Naik v. Ramasami Chetti* ILR (1906) M. 255 where it was held that the sale of an expectancy, which is forbidden by Section 6 of the Transfer of Property Act cannot be improved by the transferor subsequently acquiring an estate in possession. We are with all deference unable to agree with the decision in *L. Angannya v. Droor Narasamma* (1907) 18 M.L.J. 248. We dismiss the Second Appeal with costs.