

(1920) 08 MAD CK 0003
In the Madras High Court

Pambayam Chetty alias Ramaswami Chettiar (dead) and
Another

APPELLANT

Vs

Kandaswami Iyer and Others

RESPONDENT

Date of Decision : 24-08-1920

Acts Referred:

Citation : 60 Ind. Cas. 22 : (1920) 12 LW 562

Hon'ble Judges : Oldfield, J;Abdur Rahim, J

Bench : Division Bench

Judgement

1. The razinama petition slates that it was presented by the parties, that is to say, through their Pleader, and it also contains a clear and foil

statement of the views of the parties to the compromise. The matter is set forth in the petition and there is nothing in the record to suggest that this

statement is not arrest. The petition is signed by the Pleaders appearing on both sides. But it is now said that the appellant did not in front authorise

his Pleader to file this razinamah. If that were so, he would at once have brought the matter to the notice of the Court and filed an application to

have the decree set aside, or at least he would have filed an affidavit before us stating that the Pleader was not authorised to file this petition. In the

absence of any such affidavit, it is not possible for us to act upon a mere statement made by the Pleader appearing before us under instructions.

2. Then it is argued that the vakalatnaqh did not empower the Vakil to compromise the suit. He did not compromise it of his own accord, but it

was compromised by his client; and all that he did was to convey the fact of the compromise to the Court. The compromise being embodied in the

petition he undoubtedly had the power to present it to the court in conducting the case and the court acted upon the petition.

3. It is also suggested that the compromise is unlawful. It is very difficult to see how that is made out unless a broad proposition is established for

which No authority has been cited and which is clearly untenable that the trustee of a public trust cannot enter into a compromise of a suit relating

to the trust properties, however beneficial it may be. If he acted in good faith it is not for the Court to enquire whether the compromise is in fact

beneficial or not beneficial to the trust.

4. The second appeal is dismissed with costs.

5. Civil Revision Petition No. 898 of 1919 is dismissed.