

(1913) 11 MAD CK 0003
In the Madras High Court

Ramachariar

APPELLANT

Vs

Dorasami Pillai and Another

RESPONDENT

Date of Decision : 10-11-1913

Acts Referred:

Citation : 29 Ind. Cas. 605

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

Bench : Division Bench

Judgement

1. The question in this case is whether the security bond, Exhibit C, is a mortgage within Section 58 or a charge within Section 100, of the Transfer of Property Act, 1882. The document recites an order of the Court made upon an application that the possession of certain immovable property should not be delivered over to the plaintiff and that the defendant in this suit should give security, and states that ""we have for a sum not exceeding Rs. 300 made the properties mentioned below security."" We are of opinion that this document does not transfer an interest in the property nor is there any existing or future debt or an engagement which might give rise to a pecuniary liability within the meaning of Section 58. There is surely an intention that if the defendant should be found entitled to any damages by the Court, the amount should be realized out of the specific property. We are of opinion, therefore, that the document, Exhibit C, merely creates a charge, and does not fall within Section 31 of the Limitation Act. We are clearly of opinion that time began to run from the date of the first decree in the original Court and that the present suit was rightly held to be barred.
2. In the result this appeal fails and is dismissed with costs.