

(1914) 01 MAD CK 0018
In the Madras High Court

Rao Sahib Pydah Venkatachalapathi Garu and Others	APPELLANT
Vs	
Muthu Venkatachalapathi (died) and Another	RESPONDENT

Date of Decision : 07-01-1914

Acts Referred:

Citation : (1914) 1 LW 157 : (1914) 26 MLJ 151

Judgement

1. If the claim of the plaintiff in the present suit is to be treated as based on the footing of a mortgage-transaction we think it is clear that, as was

held in Mutha Venkatachalapathi v. Pynda Venkatachalapathi ILR (1903) M. 348 that the unregistered letter cannot be received as evidence of

such a transaction.

2. Assuming the plaintiff is entitled to sue for possession on the ground that no title passed to the defendants under the sale deed (Exhibit A), in

order to succeed he must show that by virtue of the unregistered letter the sale deed does not affect the "immovable property which is comprised

both in the sale deed and in the unregistered letter, in the way in which the sale deed purports to affect the property, and would affect the property

if the unregistered letter had never been written. This being so it seems to us the unregistered letter is relied on as evidence of a transaction affecting

Immovable property and, being unregistered, is inadmissible in evidence.

3. We think the principle of the decision in Achutaramaraju v. Subbaraju ILR (1901) M. 7 applies to this case.

4. The Appeal must be allowed with costs in this Court and the suit dismissed. There will be no order as to costs in the Court of First Instance.