
(1910) 01 MAD CK 0021
In the Madras High Court

Reyelle Jogayya

APPELLANT

Vs

Nimma Shekai Venkataratnamma and Another

RESPONDENT

Date of Decision : 05-01-1910

Acts Referred:

Citation : (1910) 20 MLJ 412

Judgement

1. In Ramasawmi Mudaliar v. Sellathammal ILR (1882) M. 5, the case by which the District Judge holds himself bound, Innes J. no doubt held

that the reversioners will not be bound to pay a debt contracted by the widow unless the debt is charged on the estate. Kindersley J., however,

took a different view, holding that the plaintiff did not allege clearly that the promissory-note was made by the widow as representative of the estate

and did not allege such a state of facts as would, by operation of Hindu law, render the debt due on the promissory-note binding on the

reversioners.

2. Neither Kindersley J. nor Turner C.J. who rejected the plaintiff in the Original Court takes the view that, as a matter of law, the reversioners

cannot be bound unless the debt is formally made a charge on the estate, and there is no other authority in this Court for that view except the

opinion of Junes J.

3. In our opinion, no distinction can be properly drawn between the case where a charge is formally created and the case in which the creditor

lends for the necessary purposes of the estate to the widow as representative of the estate. In such a case though there is no formal charge upon

the property forming the estate, the debt is a debt due by the representatives of the estate and recoverable from them. This seems to be the view of

Turner C.J. and Kindersley, J.

4. In the case before us the question whether the debts were borrowed by the widow as representative of the estate and for purposes binding on

the reversioners, and the question whether the creditor looked only to the personal credit of the widow or lent to her as representative of the estate

on the credit of the estate, have not been decided.

5. We accordingly reverse the decree of the District Judge and remand the case for decision according to law in accordance with the above

observations. Costs will abide the result.

6. It will be open to the District Judge to remand the case to the Court of first instance or take evidence himself as he deems necessary.