

(1894) 04 MAD CK 0007
In the Madras High Court

Sangu Ayyar

APPELLANT

Vs

Cumarasami Mudaliar and Others

RESPONDENT

Date of Decision : 09-04-1894

Acts Referred:

Transfer of Property Act, 1882 — Section 54

Citation : (1895) ILR (Mad) 61

Hon'ble Judges : Muttusami Ayyar, J; Best, J

Bench : Division Bench

Judgement

1. It is contended that document A being registered the property passed to the first defendant, though it is found that no consideration was paid as

specified in A, and that, consequently, the subsequent sale to defendants Nos. 3 and 5 is invalid on the ground that it was made by a person having

no title to convey. In support of this contention reliance is placed on Ram Lakhan Rai v. Bandan Rai ILR 2 All. 711; Bishenmun Singh v. The Land

Mortgage Bank of India ILR 11 Cal. 244; Umedmal Motiram v. Davu Bin Dhondiba ILR 2 Bom. 547 and also on Section 54 of the Transfer of

Property Act.

2. The present case is, however, distinguishable from the above. Here the first purchaser abstained from paying the purchase-money from 1887 to

1890, and allowed his vendor to retain possession, and then to sell the property to defendants 3 and 5, who, in consequence, paid off the

mortgage that was to be discharged by the original purchaser.

3. The plaintiff purchased the same property from the first defendant in 1888, and lay by till 1890, and then, forging the lease B, brought this suit

for possession of the property without offering to pay the consideration or

accounting for it.

4. We are unable to say that his conduct discloses an intention to insist upon the original sale as a valid transaction.

5. After thus lying by for several years, we do not think he should be permitted in equity to turn round on others who have paid valuable

consideration and succeed with the aid of a forged document. To do so would be to permit the Registration Act to be turned into an instrument of fraud.

6. We dismiss the appeal with costs.