

(1909) 07 MAD CK 0018
In the Madras High Court

Sankaran Subban Patter and Others

APPELLANT

Vs

Mangalasheri Kunhu Moidu Musaliar and Another

RESPONDENT

Date of Decision : 27-07-1909

Acts Referred:

Negotiable Instruments Act, 1881 (NI) — Section 16

Citation : (1910) ILR (Mad) 34 : 3 Ind. Cas. 428

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

Bench : Division Bench

Judgement

1. On the 18th December 1901, the 1st defendant executed the promissory-note, Ex. A, promising to pay on demand to the 3rd defendant or order Rs. 1,000 with interest. On the 12th September 1904, the following entry signed by the 3rd defendant was made upon the note: "I have this day received in cash from you Mangalasheri Kunhu Moidu Mnsaliar...Rs. 1,169, made up of Rs. 1,000 being principal due under this note and of Rs. 169 interest accumulated up to date, and assigned to you this note with power to recover the amount due under it by showing the same." The assignee is the plaintiff who sued on the note. The defence was that the suit is not maintainable by reason of the agreement contained in the separate document Ex. I executed on the same date as Ex. A by the 3rd defendant in favour of the 1st defendant. The Subordinate Judge held that the plaintiff was a holder in due course, and that even apart from his position as holder in clue course he was entitled to recover. The only question which we need consider is, whether the plaintiff is a holder in due course. That the plaintiff paid consideration for the transfer is found by the Subordinate Judge; that the plaintiff had any notice of the agreement contained in Ex. I _ was not alleged by the defendants in their written

statement, and no issue was raised on this subject. It is contended, however, that there is no endorsement on the note, so that the plaintiff is not an endorsee of the note, and that even if the entry on the note is construed to be an endorsement, the endorsement was not made before the amount mentioned in the note became payable, the note being payable on demand. We think that the endorsement on the note which has been set out above is an endorsement in full within the meaning of Section 16 of the Negotiable Instruments Act. Under that section if the endorser in addition to signing his name adds a direction to pay the amount to a specified person, the endorsement is said to be full. The section does not lay down that any specific form of words is to be used. It is sufficient if the words used can be properly construed as a direction of the nature mentioned, and we think that the words used in the present case can be so construed. A similar view was taken in O.R.P. No. 603 of 1906. The plaintiff is, therefore, an endorsee of the note. As to the remaining contention it is not alleged that there was any demand for payment prior to the endorsement or that there is any other circumstance to show that the pro-note was ever due when endorsed to the plaintiff. This being so, we think that the endorsement to the plaintiff was made before the amount of the pro-note became payable. Vide *Commundun Moideen Saib v. Oree Meera Saib* 7 M.H.C.R. 271 where the English cases on the subject are referred to and *Van Ingen v. Dhunna Lal Lallah* 5 M.k 108. The plaintiff thus possesses all the characteristics of a holder in due course as defined in Section 9 of the Negotiable Instruments Act, and his suit cannot be resisted. The appeal fails and is dismissed with costs.