

(1923) 03 MAD CK 0012
In the Madras High Court

The M. and S.M. Ry. Co. Ltd.

APPELLANT

Vs

K. Rangaswamy Chetty and Another

RESPONDENT

Date of Decision : 16-03-1923

Acts Referred:

Contract Act, 1872 — Section 91

Citation : 73 Ind. Cas. 537

Hon'ble Judges : Phillips, J

Bench : Single Bench

Judgement

Phillips, J.—So far as the goods bought from Kaveri Chetty are concerned, it is obvious that plaintiffs can claim no damages and this is

practically conceded in argument. u/s 91 of the Indian Contract Act the other goods had been delivered to Munisami Chetty and properties in them

had passed to him. Plaintiffs in consigning the goods, some of which had never been their property, only acted as Munisami's agents. If the

property had passed from plaintiffs they have sustained no loss by the non-delivery of the goods and consequently no damages. Dawes v. Peck

(1799) 8 T.R. 330 : 3 Esp. 121 : 101 E.R. 1417 is authority for holding that consignee alone can sue in such a case and it does not seem to me that

Section 72(3) of the Indian Railways Act has any application here for the responsibility of the Railway Company is not affected, but that

responsibility is to the consignee and not to his agent, the consignor.

2. The petition is allowed and plaintiff's suit is dismissed with costs throughout.