

(1923) 03 MAD CK 0076
In the Madras High Court

The M.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 : AIR 1924 Mad 517

Hon'ble Judges : Phillips, J

Bench : Division 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 Munisacni 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 [1977] 8 T.R. 330 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.