

(1925) 08 MAD CK 0063
In the Madras High Court

Umamkeswara Mudaly and Others

APPELLANT

Vs

Muniswami Mudaly and Others

RESPONDENT

Date of Decision : 25-08-1925

Acts Referred:

Citation : 94 Ind. Cas. 306

Hon'ble Judges : Victor Murray Coutts Trotter, C.J;Viswanatha Sastri, J

Bench : Division Bench

Judgement

1. In this case the learned Judge in making his final decree in a suit for dissolution of partnership has made two errors in taking the accounts. In the first "place he has allowed interest on monies drawn by a partner from the partnership funds--be it capital or interest, it does not matter--a thing which it is not the practice to allow unless it is so provided in the deed. There is clear authority in the case of Meymott v. Meymott (1862) 54 E.R. 1211 : 31 Beav. 445 : 32 L.J.Ch 218 : 9 Jur.(N.S.) 426 : 135 R.R. 515. The other thing he has allowed is interest on certain advances up to the date not of the dissolution which had been effected by the preliminary decree but right up to the date of final decree. For that again there is clear English authority, Barfield v. Loughborough (1873) 8 Ch. 1 : 42 L.J.Ch.179 : 27 L.T. 499 : 21 W.R. 86 that such allowances cannot be made. The decree will be amended by disallowing those two items, interest at 9 per cent. being allowed up to the date of the preliminary decree. After that date the usual rate of 6 per cent. interest will be allowed.