

(1897) 09 MAD CK 0019
In the Madras High Court

Venkata Krishna Rao

APPELLANT

Vs

Venkatachalam and Others

RESPONDENT

Date of Decision : 10-09-1897

Acts Referred:

Citation : (1897) 7 MLJ 299

Judgement

1. The mere circumstance that interest is stipulated for by the parties does not by itself indicate that a document which apparently is a sale was intended to be a mortgage. It might be important as indicating that there was a subsisting debt secured by the instrument. But the mention of interest is accounted for by the intention of the parties to arrange before-hand the terms on which the re-conveyances were to take place. The profits and the interest were to be set off against each other. Except the mention of interest, there is no indication of an intention to create a mortgage security. The finding as to the value of the property as throwing light on the intention of the parties cannot be questioned here.
2. We must dismiss the appeal with costs.