

Seshayya Vs. Subbamma

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SooperKanoon Citation : sooperkanoon.com/778849

Court : Chennai

Decided On : Aug-26-1898

Reported in : (1898)8MLJ269

Appellant : Seshayya

Respondent : Subbamma

Judgement :

1. We cannot agree with the District Judge in holding that Section 58 of the Indian Stamp Act precludes any evidence except a receipt being adduced to prove payment. It only provides that a party making a payment may demand a receipt. Even when a receipt is given and is not produced in evidence, evidence aliunde is admissible as the Illustration to Section 91 of the Indian Evidence Act to which the Judge refers clearly shows. There is no conflict between that Illustration and Section 92 of the Act. The Judge was also in error in holding that the endorsement on Exhibit I, was inadmissible for want of registration for the endorsement does not purport to extinguish the mortgage. (Section 17 Clause n of the Indian Registration Act.)

2. As the District Judge, in consequence of his erroneous views on these matters, has decided the case without reference to the evidence bearing on the question of payment, we must set aside his decree and remand the appeal for disposal in accordance with law. Costs in the second appeal will be provided for in the revised decree of the District Judge.

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