

**Ramasami Chetti Vs. Ramasami Chetti and anr.**

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**SooperKanoon Citation :** [sooperkanoon.com/779129](http://sooperkanoon.com/779129)

**Court :** Chennai

**Decided On :** Apr-19-1882

**Reported in :** (1882)ILR5Mad220

**Judge :** Kindersley and ;Muttusami Ayyar, JJ.

**Appellant :** Ramasami Chetti

**Respondent :** Ramasami Chetti and anr.

**Judgement :**

**Kindersley, J.**

1. This suit has been brought upon a hundi drawn by the defendant on his firm at Colombo. In the Courts below the objection was taken that the hundi, which was never presented for payment, was not stamped until long after the date on which it was drawn. The Acting District Judge was of opinion that, as the hundi was payable at Colombo, which is not in British India, it did not require a stamp. He, therefore, admitted the hundi in evidence and based his judgment upon it.

2. If the point were properly before us, we should be unable to concur in the opinion of the District Judge. Section 16 of the Stamp Act shows that all instruments chargeable with duty and executed in British India ought to be stamped, either before or at the time of their execution. But the document having been admitted in evidence by the District Judge, we are precluded by Section 34,1

Clause 3 of the Stamp Act from allowing it to be called in question now. The objection is not one affecting the merits of the decision; and, therefore, under Section 578 of the Civil Procedure Code, we are prohibited from entertaining it.

3. The hundi having been admitted, the only remaining objection is that it was not supported by any consideration, but was drawn merely for the accommodation of the second plaintiff. But this suit appears to have been brought by the first plaintiff in the style of the plaintiff's firm; it has been regarded by the Judge as a suit on behalf of the firm, and no objection to that view has been taken in this second appeal. Then as between the plaintiffs' firm and the defendant, it appears that money was paid by the firm to the defendant at his request; and that was sufficient consideration for the hundi, which was drawn in favour of the firm.

4. These were the only points argued on second appeal; and, for the reasons already given, we must dismiss this second appeal with costs.

1 Instruments not duly stamped inadmissible in evidence etc.

[Section 34 : No instrument chargeable with duty shall be admitted in evidence for any Instruments not duly purpose by any person having by law or consent or parties, authority to receive evidence, or shall be acted upon, registered or authenticated by any such person or by any public officer. unless such instrument is duly stamped.]

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