

Chathu Vs. Virarayan

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SooperKanoon Citation : sooperkanoon.com/786407

Court : Chennai

Decided On : Apr-11-1892

Reported in : (1892)ILR15Mad491

Judge : Muttusami Ayyar and ;Best, JJ.

Appellant : Chathu

Respondent : Virarayan

Judgement :

1. It is conceded that, if secondary evidence of the contents of the document filed as Exhibit VIII in Original Suit No. 747 of 1878 on the file of the District Munsif of Calicut is admissible under Section 19 of the Limitation Act, the present claim will not be barred, but it is contended that, on the true construction of paragraph 2 of Section 19, such evidence is not admissible, even though the document may be lost, destroyed or even withheld by the opposite party. We are unable to accept this contention. We agree with the Calcutta High Court for the reasons mentioned in Shambhu Nath Nath v. Bam Chandrashaha I.L.R. 12 Cal. 267, that Section 19 of the Limitation Act must be read with Sections 65 and 91 of the Evidence Act and that it does not exclude secondary evidence of contents of documents in cases in which such would be admissible under Section 65,

2. This second appeal fails therefore and is dismissed with costs.

