

Ramamirtha Ayyan Vs. Gopala Ayyan

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Court : Chennai

Decided On : Jul-15-1896

Reported in : (1896)ILR19Mad433

Judge : Davies and ;Boddam, JJ.

Appellant : Ramamirtha Ayyan

Respondent : Gopala Ayyan

Judgement :

1. We have no doubt that a deed of gift is not complete until it has been registered as required by Section 123 of the Transfer of Property Act, and that it only operates upon registration. In this case the deed of gift was not registered until the sale had been completed and, therefore, was not effectual as against the deed of sale.

2. We are further of opinion that a deed of gift being a voluntary transfer remains nudum pactum until the donor has done all that is necessary to make it legally complete. To do so, it is necessary, inter alia, that it should be registered; but he can be no more compelled to register the deed than to execute it in the first instance. The registration of the present deed contrary to the supposed donor's wishes, which was ordered by the Registrar, was therefore void. We accordingly hold there was no gift, and reverse the decision of the Subordinate Judge and restore that of the Munsif. The appellant's costs in this Court and in the first

Appellate Court must be paid by the respondent.

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