

Ramasami Vs. Basavappa

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Court : Chennai

Decided On : Mar-16-1893

Reported in : (1893)ILR16Mad325

Judge : Arthur J.H. Collins, Kt., C.J. and ;Parker, J.

Appellant : Ramasami

Respondent : Basavappa

Judgement :

1. In order to facilitate the realization by defendant of a judgment-debt and to procure the release of the judgment-debtor from jail, the plaintiff paid Rs. 1,000 and took a transfer of the decree from defendant. The decree was, however, in favour of a minor as well as of defendant, and the Court refused to recognize the transfer. The plaintiff could not have appealed from an order under Section 232, as no appeal lies, and he was clearly entitled to be replaced in the same position as before. He could not anticipate that the Court would refuse to recognize the transfer, or that the transfer of the minor's interest by defendant would be held to be void. The defendant could not enter into the agreement without the leave of the Court Section 462, Civil Procedure Code; the contract was, therefore, incomplete, and the defendant failed to make in plaintiff's favour a valid transfer. The case appears to be within the rule laid down by the Privy Council in Seth Jaidayal v. Ram Sahm I.L.R. 17 Cal. 432

2. The decree of the District Court may be reversed and that of the District Munsif restored. The plaintiff is entitled to his costs in this and in the lower Appellate Court.

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