

Subbanna and ors. Vs. Munekka

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Court : Chennai

Decided On : Oct-30-1894

Reported in : (1895)ILR18Mad457

Judge : Muttusami Ayyar, J.

Appellant : Subbanna and ors.

Respondent : Munekka

Judgement :

Muttusami Ayyar, J.

1. It is urged in support of this appeal that the money claimed from Beera Gowdoo by the respondent was not a debt due to Venkataramanna within the meaning of Act VII of 1889. This contention appears to me to be well founded. The word 'debt' is described in Sub-section 2 to Section 4 as including any debt except rent, revenue or profit payable in respect of lands used for agricultural purposes. Though to constitute a debt it is not necessary that there should be a loan, still it is necessary that there should be a sum of money due by Beera Gowdoo to the deceased. In the case before me the deceased left some sheep with Beera Gowdoo. Beera Gowdoo failed to return the same. There is nothing in the evidence to show that the original transaction was any thing more than entrustment of the sheep for safe custody, and that Beera Gowdoo was under any obligation to pay a liquidated sum as the value of the sheep. Any promise made to

respondent to pay Rs. 45 for its value would not make him a debtor to Venkataramanna. The respondent was at liberty to sue Beera Gowdoo for damages either for wrongful detention of the sheep or, treating him as her debtor, sue him for the money promised to be paid to her as the value of the sheep. Beera Gowdoo never became a debtor to Venkataramanna within the meaning of the Act. No certificate can, therefore, be granted to respondent under the Act. See *Narayan Bhau Bartake v. Tatia Ganpatrao Deshmukh* I.L.R. 15 Bom. 580.

2. I set aside the order of the Judge and dismiss the application for a certificate with costs.

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