

Vadla Nagiah Vs. Valuru Divakara Mudaliar, Deceased, by His Legal Representative Valuru Pdrdshothama

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Court : Chennai

Decided On : Feb-12-1917

Reported in : AIR1918Mad564(1); 41Ind.Cas.585

Judge : Sadasiva Aiyar and ;Spencer, JJ.

Appellant : Vadla Nagiah

Respondent : Valuru Divakara Mudaliar, Deceased, by His Legal Representative Valuru Pdrdshothama

Judgement :

1. We are bound by the Privy Council decisions in Ram Narayan Singh v. Adhindra Nath Mukhurji 34 Ind Cas. 900 : 4 L. W. 15 : 20 C. W. N. 989 : (1916) 1 M. W. N. 428 : 31 M. L. J. 251 : 20 M. L. T. 216 : 14 A. L. J. 1017 : J 8 Bom. L. R. 862 : 25 Cri. L. J. 115. and Shamu Patter v. Abdal Kadir Rowthan 16 Ind. Cas. 250 : 35 M 607 : 16 C. W. N. 1009 : 23 M. L. J. 321 : 12 M. L. T. 23'; (1912) M. W. N. 935 : 10 A. L. J. 259 : 14 Bom. L R. 1034 : 6 Cri. L. J. 596 : 391. A 218 to hold that even where the defendant admits execution of what purports to be a mortgage-deed, the transaction would not be a valid mortgage, if the defendant does not admit that it was attested by two witnesses who saw him execute it or if it is not proved that it was attested by two such witnesses (Section 59 of Act IV of 1882).

2. We, therefore, set aside the District Judge's judgment and restore that of the Munsif. The parties will bear their respective costs throughout.

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