Uthira Reddiar Vs. Muthu Reddiar

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SooperKanoon Citation : sooperkanoon.com/799338

Court : Chennai

Decided On : Feb-18-1926

Reported in : AIR1927Mad68; 97Ind.Cas.757

Judge : Madhavan Nair, J.

Appellant : Uthira Reddiar

Respondent : Muthu Reddiar

Judgement :

Madhaven Nair, J.

1. The suit is on a promissory note and it has been dismissed on the ground that the suit is not maintainable. I think the decision is wrong and should be set aside. The facts found are that the plaintiff and the defendant are partners and the defendant executed the promissory note to the plaintiff for the money paid by the plaintiff towards the defendant's share capital of the partnership. In this view the promissory note transaction is absolutely independent of the partnership concern and there is nothing against law in the plaintiff being allowed to institute a suit on a promissory note. The law applicable is thus stated by Pollock and Mulla in their book on the Indian Contract Act:

One partner may sue another for advances made by him not to the partnership concern, but to the other partner in respect of what he is to contribute to the joint capital.

2. See page 806, Pollock and Mulla.

3. Mr. Anantha Ayyar for the respondent argues that the promissory note is not supported by consideration but that has been found against in the learned Judge's finding on the second issue 'whether the defendant executed the suit pro-note for his share capital.' I take the finding to mean that after the defendant executed the promissory note the plaintiff actually paid the money which went towards the defendant's share capital of the partnership.

4. The petition is, therefore, allowed. I pass a decree to the plaintiff for the suit amount claimed with interest at 6 per cent up to the date of the decree and with costs here and in the Court below.