

Jayanti Kistappa Vs. Jayanti Chinnapiya

Jayanti Kistappa Vs. Jayanti Chinnapiya

SooperKanoon Citation : sooperkanoon.com/809704

Court : Chennai

Decided On : Nov-24-1911

Reported in : 13Ind.Cas.188

Judge : Wallis, J.

Appellant : Jayanti Kistappa

Respondent : Jayanti Chinnapiya

Judgement :

Wallis, J.

1. In this case the plaintiff sued the defendant for a debt, averring in his plaint that the defendant had failed to pay in spite of repeated demands. He also obtained an order for attachment before judgment. Before the attachment issued, the defendant paid the amount sued for into Court and the defendant drew it out. Order XXIV, Rule 4(2) requires that when a defendant pays money into Court and the plaintiff accepts it in full satisfaction, the plaintiff shall present to the Court a statement to that effect, and such statement shall be filed and the Court shall pass judgment accordingly, and in directing by whom the costs of each party are to be paid the Court shall consider which of the parties is most to blame for the litigation. The District Munsif gave the plaintiff his costs, and the Subordinate Judge on appeal reversed this part of the judgment on the ground that the plaintiff should either have made a demand or given sufficient reasons for his failure to do so. The

plaintiff in his plaint did allege previous demands which the defendant apparently denied in his written statement.

2. The Subordinate Judge should have called for a finding on the point before disposing of the case. The decree of the lower Appellate, Court must be set aside and the case remanded for disposal according to law. Costs will abide the result.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com