

(1914) 03 MAD CK 0010

Madras High Court

Case No: None

Aravamudai Aiyangar

APPELLANT

Vs

Kalia Perumal

RESPONDENT

Date of Decision: March 27, 1914

Acts Referred:

- Succession Certificate Act, 1889 - Section 4

Citation: AIR 1914 Mad 58(1) : 24 Ind. Cas. 143

Hon'ble Judges: Ayling, J

Bench: Single Bench

Judgement

Ayling, J.

In this case the plaintiff (respondent) sued on a promissory note as the assignee of the widow of the promissee. He produced no

succession certificate. The Subordinate Judge, gave him a decree directing at the same time that it should not be executed without filing a certificate.

2. It is argued on behalf of the petitioner (2nd defendant) that the Court had no jurisdiction to pass such a decree in view of Section 4 of the

Succession Certificate Act. See also Santaji Khanderao v. Ravji 15 B. 105. I think this contention must prevail. The plaintiff can stand in no better

position than his assignor. Vide Karuppasami v. Pichu 15 M. 419 : 2 M.L.J. 116. The decree was illegal. The proper course in such cases is

indicated in Manasing v. Ahmad Kunhi 17 M. 14. The plaintiff should be allowed a reasonable time to file succession certificate : failing which his

suit would be liable to dismissal.

3. The decree of the Subordinate Judge is set aside and he is directed to restore the suit to file and dispose of it according to law.