

(1950) 08 MAD CK 0031

Madras High Court

Case No: Civil Revision Petition No. 628 of 1948

Krishna Pillai and Others

APPELLANT

Vs

Ranganathan Pillai

RESPONDENT

Date of Decision: Aug. 17, 1950

Acts Referred:

- Civil Procedure Code, 1908 (CPC) - Order 3 Rule 4, Order 9 Rule 13

Citation: AIR 1951 Mad 686(1) : (1950) 2 MLJ 769

Hon'ble Judges: Horwill, J

Bench: Single Bench

Advocate: P.S. Ramachandran, for the Appellant; N.K. Mohanarangam Pillai and M.V. Gopalaratnam, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

Horwill, J.

Because his clients were not ready, their advocate, through another advocate, reported no instructions. The suit was then

decreed ex parte. In an application to set aside the ex parte decree, the advocate tendered the same Vakalath, which was held by the Ct not to be

a proper vakalath, as the advocate had withdrawn it when he reported no instructions in the suit. The application to set aside the ex parte decree

was therefore dismissed. In appeal, the learned Dist Judge affirmed the order of the District Munsif.

2. I have no doubt that the Cts below decided this matter correctly. When a vakil reports no instructions, it means that he withdraws his vakalath.

If authority was necessary for that it is found very clearly in V. Manickam Pillai Vs. Mahudum Bathummal and Others, , when the learned Chief

Justice in several parts of his judgment equates the reporting of no instructions to the withdrawal of the vakalath. The learned counsel for the petnr

here relies on "Bachubai v. Ibrahim", 47 Bom 11 : AIR 1922 Bom 207 & Mt. Jwala Devi Vs. Bhrigunath Sahai, . In these cases, the only question

arose was whether, where the suit had been decreed ex parte, the same vakalath could be used in an application to set aside the ex parte decree.

As the learned Dist Judge pointed out with regard to "Bachubai v. Ibrahim", 47 Bom 11 : AIR 1922 Bom 207, the learned Judges there were not

considering a case in which the plain tiff had reported no instructions. If they had, there could have been no question of utilising the same vakalath

for another proceeding; for even before the suit itself was decreed the vakalath had ceased to have any value, be cause it had been withdrawn. The

petition is dismissed with costs.