PRIVY COUNCIL

R.M.A.R.R.M. Arunachalam Chetti

Vs.

V.E.A. Vayiravan Chetti

Privy Council Appeal No. 144 of 1927
(Lords Blanesburgh, Tomlin CJ., Thankerton, Sir George Lowndes and Sir Binod Mitter JJ.)

04.07.1929

JUDGMENT

SIR GEORGE LOWNDES J.

1. The appellant, in conjunction with his mother, Valliammai, sued two sets of defendants in the Court of the Subordinate Judge of Sivaganga for the recovery of the balance of certain deposits made under circumstances hereinafter detailed. The plaintiffs succeeded in the first Court in respect of the greater part of their claim against both sets of defendants. In the Court of appeal the decree was upheld only against the first set of defendants, who are persons of no substance, and the suit was dismissed against the other and more substantial defendants. The question on appeal to His Majesty in Council is whether the second set of defendants are liable.

2. It is now admitted that the deposits in question were made in the year 1888, as the result of a family arrangement. Valliammai was a son-less widow whose husband Ramanathan had died two years previously. In order to provide for a future adoption by Valliammai a sum of Rs. 5,000, made up partly from her stridhan and partly by contributions from her own father, Veerappa, and her father-in-law, Arunachellam, was handed over to Veerappa to be deposited by him with a certain chetti firm in Rangoon, where high rates of interest profiled. The deposit was duly made with the agreed firm, but in 1892 the fund was transferred by Veerappa's firm (which is known by the initials A. M. V. R.) to another Rangoon firm known as V. E. A., whose representatives were the second set of defendants in the suit (defendants 7-11) and the respondents in this appeal, defendants 1-6 being the representatives of Veerappa's firm, whose liability was affirmed by the High Court in appeal. There is nothing on

the record to show under what circumstances this transfer was made, but it is not suggested for the appellant that it was done at Valliatnmai's instance or after consultation with her, and it seems to have been a mere change of investment made at the assumed discretion of Veerapa.

3. The V. E. A. firm received the fund which then amounted to over Rs. 10,000, and credited it in their books under the heading. "R. M. A. R. R. M." (which denoted the firm of Valliammai's deceased husband, Ramanathan), "maral A. M. V. R.," i. e., as received through Veerappa's firm (A. M. V. R.), though the exact implication of the word "maral" is a matter in dispute between the parties.

4. In 1895 the appellant, then a minor, was adopted by Valliammai, and a sum of Rs. 6,680 was withdrawn from the fund for the expenses of the adoption. Shortly afterwards a sum of Rs. 900, representing presents made to the adopted boy, was added to the deposit in the hands of the V. E. A. firm. This withdrawal and further deposit were apparently made by Veerappa's firm, (A. M. V. R.), there being no evidence of any direct dealing between either Ramanathan's firm (R. M. A. R. R. M.) or Valliammai and the V. E. A. firm in Rangoon.

5. Interest was duly credited on the deposits by the V. E. A. firm and accounts were rendered annually to the A. M. V. R. firm and this continued till 1904, when, the A. M. V. R. firm, having opened a branch of their own in Rangoon, the balance of the fund was at their request paid over to them by the V. E. A. firm and the V. E, A. deposit account was finally closed.

6. During the whole of this period there seems to have been no communication of any sort between Ramanathan's firm or Valliammai and the V.E. A. firm, and no reference was made to either of them or to the appellant, who was then of full age, when the F. E. A. account was closed. The appellant made no enquiries as to the state of the account, as to the payment of interest, or the mode of investment. Between 1904 and 1917, when the suit was filed, he and his mother made numerous withdrawals, amounting in all to Rs. 8,700, from the A. M. V. R. firm, and apparently regarded it as solely responsible to them for the deposit, Veerappa, the head of the firm, was the appellant's grandfather, and he survived till 1914. He had himself contributed the major part of the original deposit, and there is no suggestion that during his lifetime the firm was in other than good circumstances.

7. The significance of this prolonged course of dealings from 1904 onwards between the appellant and Veerappa's firm seems not unnaturally to have been a matter of some

anxiety to the appellant, and he tried to account for the withdrawals of the Rs. 8,700 by the allegation that he had other and independent funds with the A. M. V. R. firm, but this has been held by both Courts in India to be untrue, and it is not now disputed that they were withdrawals from the deposit account in suit.

8. It may also be noted that in a power of attorney from Valliammai to the appellant, given in 1917 with a view to the suit, it is stated that her stridhan amounts which formed part of the original deposit, were due to her only from the family of her father.

9. On this state of facts their Lordships have to decide whether the V. E. A. firm represented by the respondents in this appeal, are liable to the appellant for the fund which was deposited with them by Veerappa's firm, and the proper balance of which was repaid by them to that firm as long ago as 1904.

10. The appellant's case has been rested before this Board mainly on the heading of the account as kept by the V. E. A. firm. The money, it is contended, was credited by them to Ramanathan's firm (R. M. A. R. R. M.), Veerappa's firm only appearing in their accounts as the maraldar, i. e., the agent through whom the deposit was made; the receipt of Veerappa's firm, therefore, could not be valid discharge as against the appellant : moreover, the appellate Court held that the V. E. A. firm must have known who the R. M. A. R. R. M. firm were. It might perhaps be objected that neither the appellant nor Valliammai was shown to represent the R. M. A. R. R. M. firm, nor did they sue as representing it. It may well have been that the V. E. A. firm in Rangoon knew who the R. M. A. R. R. M. firm were without knowing anything about Valliammai or her adopted son, but their Lordships do not think it necessary to pursue this suggestion.

11. Much time was devoted in the Subordinate Judge's Court to the discussion of a maraldar's position and responsibilities under the trade usage prevailing among the chettis of Southern India, but nothing definite results from the discussion. It has not been suggested that a custom was established, and it has not been seriously contended for the appellant before this Board that any conclusion can be based upon the mere use of the word "maral." The maraldar is clearly something more than a bare agent, the limit of his powers and responsibilities depending upon the understanding between the parties. It is, in their Lordships'opinion, a question to be decided upon all the circumstances of the case whether the intention was that Veerappa and his firm, while remaining directly responsible to those to whom the beneficial interest in the fund belonged, should have authority to change its investment from time to time and to give

a valid discharge for its repayment ; and having regard to the relationship of the parties, the course of dealing between them, and the other facts set out above, their Lordships have no doubt that the only possible inference is that Veerappa and his firm were alone to be responsible to the appellant and his mother, and that the repayment in 1904 by the respondent's firm to Veerappa's firm, with whom alone they had dealt, was a good discharge of their liability.

12. Their Lordships are, therefore, satisfied that the decree of the High Court in India should be affirmed, and they will humbly advise His Majesty accordingly. The appellant must pay the costs of this appeal.

Appeal dismissed.