

**Annamalai Chetty Vs. Muthiah Chetty and ors.**

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**Court :** Chennai

**Decided On :** Dec-01-1921

**Reported in :** AIR1922Mad210; 70Ind.Cas.590

**Judge :** Kumaraswmi Sastri and; Devadoss, JJ.

**Appellant :** Annamalai Chetty

**Respondent :** Muthiah Chetty and ors.

**Judgement :**

1. The first defendant is the appellant. He executed the note sued on in favour of the second defendant who endorsed it to defendants Nos. 3, 4 and 5. The third defendant endorsed it in blank and handed the note to defendants Nos. 4 and 5 and they endorsed it in blank, received the sum due on the note and handed the note to, the plaintiff. The District Munsif dismissed the suit on the ground that the endorsement by the third defendant and defendants Nos. 4 and 5 was not valid under Section 51 of the Negotiable Instruments Act and that plaintiff acquired no title under the endorsement by defendants Nos. 4 and 5, in his favour. On appeal the District Judge reversed the decree on the ground that defendants Nos. 4 and 5 were agents of the third defendant for collection of the amount due and that they had power to endorse on his behalf.

2. So far as defendants Nos. 3, 4 and 5 are concerned, it is admitted that the endorsement to them by the second defendant was for collection. It is stated in the written statement of defendants Nos. 3 to 5 that they asked the plaintiff for money and that he consulted defendants Nos. 1 and 2 and then paid the money for the note. They also state that the second defendant told them that as he was not able to give them cash he would get a hundi and that they may discount it after giving vattam in the market; It is common for promissory-notes being realised by discounting them. The fact that the endorsements by defendants Nos. 3, 4 and 5 are in blank supports the view. There is, therefore, no force in the argument that further negotiation by defendants Nos. 3, 4 and 5 was incompetent. Section 50 of the Negotiable Instruments Act requires that the restriction or exclusion of the right of further endorsement must be by express words. No such words appear on the note and as there is nothing in the endorsement to defendants Nos. 3, 4 and 5 to limit their right to further negotiate the note. It is difficult to see how the endorsements given, if otherwise valid, would be a bar to plaintiff's claim. As regards the endorsements by defendants Nos. 3, 4 and 5 they are all in blank. So far as the note goes there is the endorsement in blank of all three endorsees. The defendants do not raise the plea that third defendant first endorsed the note in favour of defendants Nos. 4 and 5 and that they in turn endorsed it to plaintiff, thus rendering the endorsement invalid to confer title on him. Section 51 of the Negotiable Instruments Act does not require

that the endorsements should be at one and the same time. Its effect is only to prevent one of two or more endorsees negotiating the note and its requirements are satisfied if the endorsement is by all the payees or endorsees. If for the purpose of collection the third defendant first endorsed the note and gave it to fourth and fifth defendants in order to enable them to add their signatures and then raise money, it cannot be said that the provisions of sections 51 are contravened.

3. There is no endorsement by third defendant in favour of defendants Nos. 4 and 5; but there is only a blank endorsement by the third defendant. There is a difference between endorsement and negotiation, and the handing over the note by the third defendant to defendants Nos. 4 and 5 with the object that the money on the note may be collected from plaintiff in accordance with the object with which the note was originally endorsed in favour of defendants Nos. 3, 4 and 5 would not amount to negotiation of the note in contravention of the provisions of Section 51, of the Negotiable Instruments Act. The whole of the argument of the District Munsif is based on the evidence of plaintiff when he says, 'the third defendant endorsed the hundi to defendants Nos. 4 and 5 and Nos. 4 and 5 endorsed the hundi to me. The third defendant endorsed the hundi to defendants Nos. 4 and 5 for collection.' Having regard to the fact that the note was endorsed for collection and the admission in the written statement of defendants Nos. 3 to 5 that they asked plaintiff for money and that the hundi was given to them in order that they might, discount it in the market paying vattam, it is quite consistent with the view that the third defendant did not intend to negotiate the note in favour of fourth and fifth defendants but simply endorsed it and handed it over to defendants Nos. 4 and 5 to do the needful to raise money and that they put their signatures beneath the third defendant's blank endorsement and collected the money by delivering the hundi blank endorsed in favour, of the plaintiff, we think there was only one negotiation though the signatures were placed at different times.

4. In *Muhammad Khamarali v. Ranga Rao* 24 M. 654 where the promissory-note was made in favour of two payees one of whom endorsed: it to the other it was held that the endorsee cannot sue on the note as endorsee or as one of two joint payees. Bhashyam Iyengar, J., however observed: 'If, in the present case, the plaintiff also has signed the endorsement in his favour at the time of the endorsement, or even prior to the institution of the suit, the action would have been maintainable by him as endorsee.' In the present case the other two endorsees signed the endorsement before suit and the note as it stands bears the blank endorsement of all the three endorsed from the second defendant.

5. The second appeal fails and is dismissed with costs.