*Criminal Revision Case No. 65 of* 1904;—This case follows our order in Criminal Revision Case No. 64 of 1904 and for the like reasons as are recorded in our order therein, we set aside the conviction and direct that the fine, if levied, be refunded.

VENKATRAMA CHETTI v. EMPEROR.

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## APPELLATE CIVIL.

*Before Sir S. Subrahmania Ayyar, Officiating Chief Justice, and Mr. Justice Boddam.*

MEENAKSHI GINNING AND PRESSING COMPANY (LD.) (DEFENDANT), APPELLANT,

*v.*

MYLE SREERAMULU NAIDU (PLAINTIFF), RESPONDENT.*

1904. March 7, 8, 16.

*Civil Procedure Code—Act XIV of* 1882, *s.* 17, *Explans. II and III—Jurisdiction—Place where contract was made—Promissory note dated and signed within the jurisdiction of one Court, and sealed and countersigned elsewhere.*

A negotiable promissory note, drawn on behalf of a Company, was signed by the Secretaries and Treasurers and dated at Bellary. The note was then sent to another place, where the Agent countersigned and affixed the seal to it and posted it, addressed to the payee at Madras, who received it there. A suit was subsequently brought on the note in the Court at Bellary :

*Held*, that the Court had jurisdiction. A statement of the place of execution is not essential to the validity of a negotiable promissory note, nor are the parties precluded from dating it at a place different from that at which it is actually made, if, for any propose of theirs, they consider it necessary to do so. Where, therefore, a negotiable note is dated with reference to a specified place, and the justice of the case does not necessitate a different conclusion, the parties should be presumed to have agreed to that place being taken to be the place of the contract.

*Winter* v. *Round*, (I.M.H.C.R., 202), referred to.

SUIT on a promissory note. Plaintiff was the indorsee of a negotiable promissory note executed on behalf of a Company, and he sued in the District Court at Bellary. The question raised and decided was whether that Court had jurisdiction to entertain the suit, on the ground that the contract had been made at Bellary. The facts found were that the signatures of the Secretaries and

* Appeal No. 44 of 1902, presented against the decree of S. Russell, Esq., District Judge of Bellary, in Original Suit No. 22 of 1901.

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Treasurers had been affixed and the note was dated at Bellary. The note was in the following terms :—

BELLARY,

Rs. 2,194-7-10. 22*nd December* 1898.

One year after date from 1st January 1899 we promise to pay the Official Assignee, Madras, or order the sum of rupees two thousand one hundred and ninety-four, annas seven and pies ten only at six per cent. per annum for value received.

(Signed) ARUMUGAM and SAMBANDAM,
*Secretary and Treasurer,*
*the Madura Meenakshi Ginning and Pressing Company (Ld.)*

The note was then sent to Tirumangalam, where it was countersigned by the Agent and the seal was affixed to it. It was then posted at Tirumangalam, addressed to the payee, who received it at Madras. The District Judge held that the Court had jurisdiction, and decreed in plaintiff's favour. Defendants preferred this appeal.

*K. Srinivasa Ayyangar* for appellant.

Mr. *C. Krishnan* for respondent.

JUDGMENT.—The plaintiff, the indorsee of a negotiable promissory note, dated the 22nd December 1898, purporting to have been executed to the Official Assignee, Madras, on behalf of the Madura Meenakshi Ginning and Pressing Company (Limited), instituted the present suit in the District Court of Bellary and obtained a decree and the present appeal is by the Company. Article 96 M (*e*) and (*f*) of the articles of association show that the Company is authorized to issue a negotiable promissory note. The note in question is signed by the two Secretaries and Treasurers of the Company who, under article 123, had, among other things, the power of entering into and executing contracts on behalf of the Company. The evidence shows that, after the promissory note in question was signed by the Secretaries and Treasurers, the same was sealed with the Company's seal and countersigned by another officer called the "Agent" working under the supervision of the Directors at the head office in Tirumangalam, in the Madura district, while the Secretaries and Treasurers stayed in Bellary in the subordinate office in that station. No doubt article 96, already referred to, relates only to the powers and duties of Directors but the Directors have power to delegate all their functions to "the Secretaries and Treasurers or officers for the time being of the Company

or such other person or persons as the Board (of Directors) thinks fit," subject to two exceptions which are not material to the present case. There can be no doubt that the debt on account of which the promissory note in question was given is a debt of the Company, it being one of the debts mentioned in the special resolutions passed by the extraordinary general meeting of the shareholders of the Company on the 6th November 1898 and confirmed by the said body on the 27th idem (see exhibit A). No evidence was adduced on behalf of the Company to show that the note was not binding on it or to rebut the inference in favour of the execution of the note with the knowledge and consent of the Directors suggested by the fact of the affixing of the seal in the circumstances already stated. It may be added that the promissory note itself appears to have been given as the result of previous negotiations between the Official Assignee and the Secretaries and Treasurers with reference to the debt mentioned in the special resolution some reduction of interest and a year's time for payment having been granted by the Official Assignee as the result of the negotiations. It is therefore clear that the promissory note was a contract binding upon the Company and the only question for determination is whether the Bellary Court had jurisdiction to try the suit. And that Court must be held to have had jurisdiction under the provisions, of section 17, explanations II and III of the Code of Civil Procedure, if, as contended for the plaintiff, the contract should be taken to have been made in Bellary. As a matter of fact the signatures of the Secretaries and Treasurers were affixed to the note at Bellary. However, the note was thereupon sent to Tirumangalam and, after being countersigned by the agent and the seal affixed to it, it was posted there, addressed to the Official Assignee, who received it in Madras. It was urged for the Company that as the contract by the note became complete only when it was posted in Tirumangalam that was the place where the contract was made. The argument on behalf of the plaintiff was that the note having been dated at Bellary the contract should be treated as made in Bellary, and this seems correct.

Now a statement of the place of execution is, of course, not essential to the validity of a negotiable promissory note, nor are the parties precluded from dating the note at a place different from that at which it is actually made, if, for any purpose of their

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they consider it necessary to do so. Where, therefore, a negotiable note, as in the present instance, is dated with reference to a specified place and the justice of the case does not necessitate a different conclusion, the parties should be presumed to have agreed to that place being taken to be the place of the contract. In *Winter* v. *Round*(1) Bittleston, J., was apparently disposed to take the same view. In *Tillatson* v. *Tillatson*(2), it was held that a note dated in one State but made in another is presumed to be payable where dated and is governed by the laws of that State. In other words, the place of the dating was taken as the place of the contract. So, where a bill was drawn by a firm in Philadelphia and dated there but the time of payment and names of drawee and payee had been left blank to be filled in and negotiated by a partner of the firm in London who filled in and negotiated the bill there, the bill was held to be one drawn and indorsed in Philadelphia (*Senning* v. *Ralston*(3)). In the same case it was further held that, though actually negotiated outside Pennsylvania, *i.e.*, in London, the indorsees not having had notice, the bill was a Philadelphia bill so as to entitle the indorsees to the damages allowed by a Pennsylvania statute, on the principle that a contract is binding on the promisor in the sense in which he intended, at the time of making it, that it should be received by the promissee.

We dismiss the appeal with costs.

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(1) 1.M.H.C.R., 202.

(2) Parson on 'Contracts', 7th Edition, Vol. II, 716.

(3) 23 Perm. St. R., 137, Vol. VII, col. 43, Century Digest.