

RAJU  
GRAMANY  
v.  
AMMANI  
AMMAL.

place in the line of heirs in the way pointed out by Sir Gurudas Banerjee ('Hindu Law of Inheritance and Stridhana,' 2nd edition, pp. 373 and 389), viz, immediately after the husband or the parents as the case may be, cannot outweigh the Mitakshara, and, as already stated, under the latter the plaintiff as the daughter of Thayammal's father has a better title than the defendant who is only his daughter's son. The appeal fails and is dismissed with costs.

## APPELLATE CIVIL.

*Before Mr. Justice Subrahmania Ayyar, and Mr. Justice Moore.*

RAMASWAMY CHETTY (PLAINTIFF), APPELLANT,

v.

THE MUNICIPAL COUNCIL, TANJORE (DEFENDANTS),  
RESPONDENTS.\*

1906  
February  
16, 23.

*District Municipalities Act (Madras) IV of 1884, s. 45—Contract not signed in accordance with section unenforceable.*

A contract purporting to be made by a Municipality but not signed by the Chairman or Vice-Chairman and a Councillor as required by section 45 of Act IV of 1884 is not binding on the Municipality.

*Radha Krishna Das v. The Municipal Board of Benares, (I.L.R., 27 All., 592), followed.*

Where the contract is not so signed, the Municipality cannot be rendered liable on the ground of executed consideration.

*Young & Co. v. The Mayor and Corporation of Royal Leamington Spa, (L.R., 8 A.C., 517), followed.*

SUIT instituted against the Municipal Council of Tanjore for the balance alleged to be due for work done by the father of the plaintiff in pursuance of a contract with the Municipal Council. The contract was signed by the contractor but was not signed by the Chairman or Vice-Chairman and one of the Councillors as required by section 45 of Act IV of 1884. No objection however was taken on this ground by the Council in the Court of First Instance or on appeal.

\* Second Appeal No. 27 of 1904, presented against the decree of M. R. Ry. T. T. Rangachariar, Subordinate Judge of Kumbakonam, in Appeal Suit No. 1152 of 1902, presented against the decree of M. R. Ry. E. S. Ranganadha Mudaliar, District Munsif of Tanjore, in Original Suit No. 80 of 1901.

The District Munsif found that the work had been done and passed a decree in favour of the plaintiff. His decision was reversed on appeal and the suit was dismissed on the ground that it was barred by limitation. Plaintiff preferred this second appeal.

RAMA-SWAMY  
CHERTY  
v.  
THE  
MUNICIPAL  
COUNCIL,  
TANJORE.

The Hon. Mr. P. S. Sivaswami Ayyar and T. Rangaramanujachariar for appellants.

T. V. Seshagiri Ayyar for V. Krishnaswami Ayyar for respondents.

JUDGMENT.—Exhibit B is the contract that it was proposed should be entered into between the Municipal Council and the contractor. It was signed by the contractor and was then forwarded to the Chairman by the Assistant Sanitary Engineer so that it might be signed by the Chairman or Vice-Chairman and one Councillor as required by section 45, Act IV of 1884 (Madras). The document was however not so signed. The contract being of the value of above Rs. 200 is not binding on the Council (*Radha Krishna Das v. The Municipal Board of Benares*(1)). Our attention has been drawn to the decision in *Abaji Sitaram v. Trimbak Municipality*(2), which however does not refer to or consider the authorities on which the Allahabad case proceeded. Under the decision in *Young & Co. v. The Mayor and Corporation of Royal Leamington Spa*(3) it is clear that the Municipality cannot be rendered liable on the ground of executed consideration. The decision in *Lawford v. The Billericay Rural Council*(4) is distinguishable from that at *Young & Co. v. The Mayor and Corporation of Royal Leamington Spa*(3) as the local body there dealt with was not governed by any statutory provision such as that to be found in the Public Health Act, 1875, section 174. On the ground that the contract is not binding on the Municipality, this second appeal must be dismissed, but as this contention was not advanced in either of the lower Courts, we consider that both parties should pay their own costs throughout. The decree of the lower Appellate Court will be modified accordingly.

(1) I.L.R., 27 All., 592.

(2) I.L.R., 29 Bom., 66.

(3) L.R., 8, A.C., 517.

(4) L.R., (1903), 1 K.B., 773.