

APPELLATE JURISDICTION (a)

*Referred Case No. 5 of 1862.*KRISTNA CHETTI *against* BALARÁMA CHETTI and others.

The obligor's consent is not necessary to the assignment of a common money-bond.

THIS was a case referred for the opinion of the High Court by R. B. Swinton, the Judge of the Court of Small Causes at Tanjore.

1863.
January 5.
R. C. No. 5
of 1862.

No Counsel were instructed.

The facts appear from the following

JUDGMENT: This is the case of a common money-bond given by the second defendant to Kristna Chetti, and by the latter *bona fide* and for good consideration absolutely assigned to the plaintiff, who thereupon sued to recover the amount secured by the bond. It appears that the second defendant (the obliger) objected, upon the hearing of the suit, that his consent was essential to the validity of the assignment, and no evidence was given of such consent; and the single question submitted for the opinion of the Court is, whether the Judge was right in deciding that proof of the obliger's consent to the assignment was not necessary to entitle the plaintiff to recover in the suit? We are of opinion that he was. The right of the obligee to assign was, in the absence of any express stipulation in the bond, quite independent of *subsequent* consent on the part of the obliger. Here, by the terms of the bond, Kristna Chetti possessed as obligee, a general unqualified right to sue upon it for the amount secured; and he was at liberty, by a *bona fide* assignment, to transfer that right to the plaintiff.

(a) Present Scotland, C.J. and frere, J.