

Madras High Court

Ry. T.P. Vinayaka Rao Sahib ... vs The Junior Prince'S Estate, ... on 4 November, 1940

Equivalent citations: (1941) 1 MLJ 467

JUDGMENT

1. This appeal has been treated as a revision petition and the appellant will pay the deficient court-fee. The question whether the liability to make restitution is a debt is covered by the decision of Pandrang Row, J., in Vasantharao Sahib Bhonsle v. Narayanaswami Aiyar (1939) 2 M.L.J. 745, with which we are in respectful agreement. Such a liability is clearly a debt and it is no less a debt when due from the son of the original party by reason of his possession of family property after partition. The further question whether the insolvency of the father prevents the son from applying for the benefits of Act IV of 1938, by reason of Section 21, is also covered by the same decision which is followed by one of us in Suryanarayana v. Ramamma (1940) 2 M.L.J. 291. Clearly Section 21 only bars an application by the insolvent and not one by some other non-insolvent person liable for the same debt. The appeal, treated as a revision petition is allowed with costs from the estate and the application is remitted to the lower Court for disposal after determination of the question whether the applicant is an agriculturist.