

Thotapalli Sarvabhotla Venkata Chandikamba - - *Appellant*

v.

Indrakanti Viswanathamayya - - - - - *Respondent*

FROM

THE HIGH COURT OF JUDICATURE AT MADRAS.

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JUDGMENT OF THE LORDS OF THE JUDICIAL COMMITTEE OF THE  
PRIVY COUNCIL, DELIVERED THE 27TH JANUARY, 1933.

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*Present at the Hearing :*

LORD THANKERTON.  
SIR GEORGE LOWNDES.  
SIR DINSHAH MULLA.

[*Delivered by* LORD THANKERTON.]

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The one point which is sought to be raised in this appeal by the appellant, who was plaintiff in the action, is a point which should have been pleaded by him in his plaint, and it has not been so pleaded. It has been pointed out that it required evidence to establish it, and no evidence has been called about it. It was not argued in the trial Judge's Court, nor was it argued before the High Court at the hearing of the appeal and cross-objections. The first time it was raised was on the application for review of the judgment of the High Court. Their Lordships are clearly of opinion that it is quite impossible to allow the appellant to raise the point without any pleadings and without any evidence before this Board, and they will humbly advise His Majesty that the appeal should be dismissed with costs and the decree of the High Court affirmed.

In the Privy Council.

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THOTAPALLI SARVABHOTLA VENKATA  
CHANDIKAMBA

v.

INDRAKANTI VISWANATHAMAYYA.

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DELIVERED BY LORD THANKERTON.

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