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2004 PLRonline 0102 (SC)

Supreme Court of India

Present : Justice S.N. Variava, Justice H.K. Sema.

G. Pankajakshi Amma v. Mathai Mathew (D) thr. L.Rs.

Civil Appeal No's. 4101-4102 of 1998

31.03.2004

NIA S. 118 ,

Negotiable Instruments Act, 1881 Section 118 - Unaccounted transactions as claimed by the 1st Respondent, they are illegal transactions for which no court can pass a decree - All promissory notes appear to have been executed on the same day in the same handwriting and ink, which rebuts any presumption of consideration flowing under these transactions - As such, it was necessary for the 1st Respondent to produce his books of accounts as he admitted to doing money lending business but failed to maintain records which could be produced in Court - If these are unaccounted transactions they are illegal transactions for which no court can pass a decree - Kerala Money Lenders Act, 1958 Section 9.

Facts: Appellants claimed that there were chit fund transactions between them and the Respondents and that a large number of blank documents were signed from them - During evidence, the 1st Respondent admitted to chit fund transactions between the parties and that a sum of approximately Rs. 25,000/- was due but not repaid - Trial Court examined the promissory notes and concluded that they were all in the same handwriting and ink, leading to an adverse inference against the 1st Respondent who did not produce any books of accounts despite being statutorily required to do so as a money lender -The High Court reversed this decision and decreed the suit based on printed documents and admitted signatures- Order set aside - Suit dismissed. .

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