SUPREME COURT OF INDIA

K. Bhaskaran v. Sankaran Vaidhyan Balan & Anr.

Citations: (1999) 7 SCC 510 : AIR 1999 SC 3762 : 1999 SCC (Cri) 1284

Coram: Hon'ble Mr. Justice K.T. Thomas & Hon'ble Mr. Justice M.B. Shah | **Date of Decision:** September 29, 1999

SUBJECT: Negotiable Instruments Act, 1881 - Section 138 Proviso (b) - Deemed Service of Statutory Notice & Components of Cause of Action

OFFICIAL JUDGMENT SUMMARY & RATIO DECIDENDI:

Held: The statutory requirement under Section 138 proviso (b) is that the payee must 'give a notice in writing'. When the notice is dispatched by registered post to the correct address of the drawer with prepaid postage, the sender has fulfilled his legal duty. A postal endorsement showing the notice returned as 'unclaimed' or 'refused' or due to deliberate evasion constitutes deemed valid service within the meaning of Section 27 of the General Clauses Act, 1897. The five physical components constituting the cause of action under Section 138 are: (1) drawing of cheque, (2) presentation, (3) dishonour, (4) issuance of statutory demand notice within prescribed period, and (5) failure of drawer to pay within 15 days.
