

(1891) 02 MAD CK 0003
In the Madras High Court

Abdool and Others

APPELLANT

Vs

Mahamed

RESPONDENT

Date of Decision : 23-02-1891

Acts Referred:

Provincial Insolvency Act, 1920 — Section 72, 73

Citation : (1891) ILR (Mad) 404

Hon'ble Judges : Parker, J; Muttusami Ayyar, J

Bench : Division Bench

Judgement

1. Two preliminary objections are taken.
2. As to limitation we observe that the appeal time expired during the annual vacation of the High Court, and the appeal petition was presented on the first day the Court re-opened. It is, therefore, in time--Reference under Forest Act V of 1882 I.L.R., 10 Mad., 210.
2. The next objection is that no evidence was recorded u/s 72 of the Insolvent Act, and u/s 73 we are not at liberty to refer to the notes of evidence taken by the learned Commissioner.
3. It has been so held in several cases--by this Court in Best & Co. v. Kalliana Chetti Appeal No. 36 of 1880, unreported and by the High Court of Calcutta in re Ajudhia Prasad 7 B.L.R. 74, and by the Bombay High Court in re Lakhmidas Hanzraj 5 Bom. H.C.R., 63 and Kallindas Kirparam v. Trikamlal Gulabrai 9 Bom. H.C.R. 307.
4. The second objection must be allowed.
5. The appellants' vakil admits that unless he is permitted to refer to the notes of evidence, he cannot support the appeal. The appeal, therefore, fails, and we must dismiss it with costs.

6. Wilson and King, Attorneys for Respondent.