
(1955) 09 KAR CK 0002
In the Karnataka High Court
Case No : Misc. Appeal No. 78 of 1954

A.G. Mahan

APPELLANT

Vs

Bank of Mysore Ltd.

RESPONDENT

Date of Decision : 23-09-1955

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 40 Rule 1

Citation : (1955) 09 KAR CK 0002

Hon'ble Judges : Suenivasa Rau, J; Padmanabiah, J

Bench : Division Bench

Advocate : K. Sriranganathan, for the Appellant; D.R. Chandrasekhariya, for the Respondent

Final Decision : Dismissed

Judgement

Padmanabiah, J.—This is an appeal preferred by the Appellant and judgment-debtor against the order of the learned Second Additional District Judge, Bangalore City, allowing I. A. No. III in Ex. Case No. 67 of 1953 filed by the appointment of a Receiver.

2. The Petitioner is the 2nd judgment-debtor and the Respondent the do are holder in Ex. Case No. 57/1953. The decree-holder filed an application as per 1A. No. III praying for tire appointment of a Receiver. This application was allowed by the learned District Judge, and as against that order this appeal is preferred.

3. The only ground urged on the side of the Appellant is that the third judgment-debtor, of which the 2nd judgment-debtor is the Managing Director, is a public limited company and that die Court below had no jurisdiction to appoint a Receiver in other words, the argument advanced was that the Companies Act makes provision for the management of the business of a Co. and that civil Courts have no jurisdiction to appoint Receiver in respect of properties belonging to a Co.

We are not prepared to accept this proposition of law as propounded by the

learned Counsel for the Appellant.

4. The jurisdiction of civil Courts to appoint Receivers in respect of properties of a Co. recognized by the High Court of Madras in the case reported in T.S. Sivaprakasa Mudaliar and Another Vs. K.M. Samarapuri and Others, , by the High Court of Allahabad in the case reported in "Raghunath Prasad v. Budam Electric Supply Co. Ltd.," AIR 1949 All 112 (B), and by the High Court of Lahore in the case reported in - "Ratanlal v. Jagadhvi Light Rly. Co. Ltd. AIR 1946 Lab 193 (C).

In the Madras case, their Lordships have held rough the Companies Act makes provision in a Vast majority of cases for dealing with concomitances in which a company was mismanaged, the did note exclude the jurisdiction of a civil Court impunity a Receiver for a going concern.

In the Allahabad case also, a Receiver was appointed for the management of the business of a company. The same view is taken by the Lahore High Court in the case cited above.

5. The learned Counsel for the Appellant relied on a decision reported in Kailash Chandra Datta Vs. Sadar Munsif, . No doubt, that case supports the view as enunciated by him.

Their Lordships therein have held that a civil Court has no jurisdiction to appoint a Receiver to conduct the business of a company unless a Receiver is appointed in a debenture-holder's action. This view is not endorsed by their Lordships of the Lahore High Court in the case adverted to above.

With the greatest respect to the learned Judges, we are inclined to take the view as expressed by the other High Courts referred to supra. It will be noticed that all these cases refer to the management of the company itself and relate to disputes between share-holders and the office-bearers of the Co.

The present case, however, is one in which a creditor has filed a suit against a debtor, and it so happens that the debtor is a company. The learned Counsel for the Petitioner has not shown that the provisions of the CPC of which Order 40, Rule 1, is one, would not be applicable to a case where the debtor happens to be a company.

We hold that civil Courts have got jurisdiction to appoint Receivers at the instance of a creditor In respect of assets belonging to a company in deserving cases when it is found just and convenient.

6. In the result, the order of the learned District Judge is confirmed and this appeal stands dismissed with costs. Advocate's fee Rs. 25/-.