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In the Madras High Court

Ammasi Goundan APPELLANT

Vs

P.L.V.V.R. Subramania Chettiar and Another RESPONDENT

Date of Decision : 18-03-1926

Acts Referred:

Citation : AIR 1926 Mad 1080 : 97 Ind. Cas. 781

Judgement

1. In this case the Official Receiver sold certain property belonging to an insolvent and the appellant was the purchaser. On the appellant''s representation that he had bid under a misapprehension the Official Receiver set aside the sale. One of the creditors then applied to the District Court to cancel this order and confirm the sale; and this has been done. The District Judge held that the Official Receiver had no power to set aside the sale and he held also on the merits that there was no good ground for setting aside that sale.

2. So far as the Official Receiver''s power to set aside the sale is concerned, we think the District Judge was right. The auction ended in a contract with the purchaser, which ho was bound to perform, and which might have been enforced by him if the conditions had been different. It was then represented to the District Court that the Official Receiver''s order should be treated as a reference to the Court and that the Court should dispose of the reference on its merits. Although the District Judge remarks that it is impossible to treat this order as a reference, he has found that there is no sufficient ground for setting aside the sale.

3. We are now asked to direct the Court to treat the application as a reference by the Official Receiver and dispose of it on the merits. As the District Judge has already expressed his opinion on the merits, it would be useless to send it back for trial. The only ground alleged for setting aside the sale is the misapprehension of the purchaser as to the value of the property. It is not suggested that he was misled either by the Official Receiver or by any officer of Court. He merely alleges fraudulent misrepresent action by one of the creators and that is not a ground for setting aside a sale. The principle of caveat emptor

certainly applies in this case. There are no sufficient grounds for setting aside the sale.

4. The appeal is accordingly dismissed with costs.

