
(1925) 07 BOM CK 0004

In the Bombay High Court

Case No : Civil Extraordinary Application No. 164 of 1924

B.S. Jorapur

APPELLANT

Vs

Venkatesh Balvant Joshi

RESPONDENT

Date of Decision : 02-07-1925

Acts Referred:

Bombay High Court Manual of Civil Circulars — Rule 16

Citation : AIR 1925 Bom 472 : (1925) 27 BOMLR 1116 : 90 Ind. Cas. 656

Hon'ble Judges : Norman Macleod, J;Coyajee, J

Bench : Division Bench

Judgement

Norman Macleod, Kt., C.J.—The remuneration of receivers, other than official receivers, under the Provincial Insolvency Act must be fixed under rule 16 of Chapter XXIII of the Manual of Circulars issued by the High Court, which directs that the remuneration of receivers, other than official receivers, shall be in such proportion to the amounts of the dividends distributed as the Court may direct provide that it does not exceed five per centum of the amount of dividends.

2. In this case the Subordinate Judge awarded the receivers remuneration at the rate of five per cent on the whole amount realised by them. The greater portion of that amount was payable to a mortgagee. Therefore the balance available for paying dividends to creditors was under Rs. 25,000. It is clear, therefore, that the order of the Subordinate Judge directing payment to the receivers at the rate of five per cent, on the whole amount realised was not authorized by the rule and the District Judge was right in holding that the rule should be followed, and that the percentage could only be allowed on the dividends distributed. In any event, it is difficult to see how it could be said that the District Judge who was following the procedure laid down in the High Court Circulars was wrong, or that his decision is not in accordance with law. The rule will, therefore, be discharged with costs.