

(1930) 08 MAD CK 0010
In the Madras High Court

G.R. Naidu and Others

APPELLANT

Vs

Kota Savitramma and Others

RESPONDENT

Date of Decision : 05-08-1930

Acts Referred:

Citation : AIR 1931 Mad 36 : 129 Ind. Cas. 682 : (1931) 33 LW 92 : (1930) 59 MLJ 833

Hon'ble Judges : Venkatasubba Rao, J

Bench : Division Bench

Judgement

Venkatasubba Rao, J.—I do not think I can accede to Mr. Radhakrishnaiya's contention. The short point is, can the Receivers claim

commission on the 1930 Bonds which have been directed by the Master to be converted into 6 per cent. 1933-36 Bonds under the Government

of India Loan just announced? The estate is possessed of 1930 Bonds of the face value of Rs. 1,10,000. They have never been handled by the

Receivers and are in deposit with the Imperial Bank of India, Madras, as security against an overdraft. These Bonds would, in the ordinary course,

mature on the 14th of August, 1930, and it has been notified that the subscriptions for the new loan might not only be in cash but also inter alia in 6

per cent. Bonds 1930. The request for conversion should, I understand, be made before the 6th of August. Certain of the parties to the suit

apprehending that the Receivers would, for the purpose of earning commission, receive money for the old Bonds and re-invest it in the new loan,

applied to the Master to authorise the Bank directly to make the conversion instead of paying cash to the estate. The Master has made an order

accordingly.

2. Two of the three joint Receivers question the correctness of the Master's order, urging that their right to receive commission on the sum of Rs.

1,10,000 should not be affected by the transaction. Mr. Radhakrishnaiya's argument may be put thus. It must be assumed that cash is received for

the old Bonds and that the same amount is re-invested in the new loan. The act thus involves, he contends, first a collection and then an investment.

Under the order of appointment, the Receivers are entitled to remuneration on collections and it follows (so he contends) that they can claim

commission on the amount in question. I cannot accept this contention which involves a double fiction, to import which there is absolutely no

warrant. To adopt the Receivers' argument would be to strain language and no Court would countenance it merely for benefiting the Receivers at

the expense of the estate. Then it is stated that the original order directs that all monies shall be collected by Mr. A. K. Ramachandran, one of the

joint Receivers. Does this confer on him a right to insist on receiving cash for the Bonds merely to entitle the Receivers to commission? I feel no

doubt that the answer must be clearly in the negative. But if authority be needed, there is a direct decision on the point. In *Haigh v. Gratian* (1839)

1 Beav. 201 : 48 E.R. 916 although a party offered to bring in the money, the Receiver claimed that he should be allowed to collect the amount

and then pay it into Court; and it was urged for him that to prevent him from doing so would be to deprive him of the poundage. *Langdale, M.R.*,

overruled the contention, observing that the Receiver had no vested interest entitling him to collect the amount. The facts are parallel and I declare

that the Receivers are not entitled to the commission claimed.

3. I should further observe that even granting that as a question of construction the matter admits of any doubt, it is open to the Court to give such

directions as the justice of the case may require. It is strongly urged that having regard to the fact that the Receivers have already taken by way of

commission about Rs. 25,000 it would be inequitable to burden the estate with a further sum of Rs. 5,500 (this is the amount now claimed) when

the transaction involves no work and no labour on their part. I have no hesitation even on this ground in holding that they are not entitled to this

commission.

4. There has been some discussion as to in whose names the new Bonds are to

be taken. Mr. Venkataramana Rao suggests that they should be taken in the name of the Registrar, in order to avoid any claim being preferred by the Receivers to commission, when the Bonds have to be re-assigned to the party to be declared in the suit as entitled to the Bonds. As I am prepared to give a ruling at once that the Receivers have no such right, I direct that the Bonds may be taken in the name of Mr. A. K. Ramachandran, Joint" Receiver, as this appears to me the course most in conformity with the previous orders made in this case.

5. It is unnecessary in the view I have taken, to decide the effect of the provision in the order, dated the 20th of December, 1928, which refers to commission on Government Promissory Notes and War Bonds.

6. This appeal against the Master's order fails and is dismissed but without costs.