

(1938) 04 MAD CK 0017
In the Madras High Court
In Re: Ponnambala Mudali

Date of Decision : 22-04-1938

Acts Referred:

Citation : AIR 1938 Mad 905 : (1938) 48 LW 416 : (1938) 2 MLJ 529

Hon'ble Judges : Stodart, J

Bench : Division Bench

Judgement

Stodart, J.—Petitioner bought some property in court-auction.

2. The whole of the purchase money paid by him was forfeited under Rule 86 of Order 21, Civil Procedure Code. He now asks me to revise the

order of forfeiture. Only the initial deposit of 25per cent, could in any case be forfeited. To that extent the District Munsiff's order is wrong. As for

the initial deposit the District Munsiff certainly had discretion to order its forfeiture since the party had not, along with the balance of the purchase

money deposited, the cost of the general stamp to be affixed to the sale certificate. But having regard to the fact that the new rule requiring

payment of the cost of the stamp was fairly recent having been in force for only six months and also to the fact that the clerk of the Court who

issued the Chellan should have drawn the petitioner's attention to the new rule and asked him to pay the small sum necessary to defray the cost of

the stamp, I think the Court need not have ordered forfeiture of the initial deposit and though this is a case in which this Court would not ordinarily

interfere I think it is right that the District Munsiff's order be set aside and that the whole sum including the 25 per cent, initial deposit be returned

to the petitioner subject to such deductions as are-prescribed.

3. Both parties do bear their own costs of this petition.