

**(1937) 11 MAD CK 0029**  
**In the Madras High Court**

K. Sundaram Aiyangar

APPELLANT

Vs

The Official Receiver of Trichinopoly

RESPONDENT

---

**Date of Decision :** 30-11-1937

**Acts Referred:**

**Citation :** AIR 1938 Mad 594 : (1938) 1 MLJ 543

**Hon'ble Judges :** Venkatasubba Rao, J

**Bench :** Division Bench

---

## **Judgement**

Venkatasubba Rao, J.—This is a mortgage suit in which the plaintiff applied for the appointment of a receiver. The mortgagor who had

become an insolvent, was impleaded as the first defendant and his assignee the Official Receiver was joined as the fifth. In the presence of the latter

and after objection by him, the plaintiff himself was appointed as receiver. The Official Receiver having granted certain leases of the property, the

plaintiff as the receiver applied, first that the former should be directed to furnish certain particulars regarding the leases and secondly, that he

should be directed to deposit the monies collected by him. The lower Court allowed the application and Burn, J., set aside that order. In this

Letters Patent Appeal, the correctness of the learned Judge's order is attacked.

2. We fail to see how the lower Court's order of appointment of receiver can be attacked. The plaintiff was appointed receiver on the 3rd

September, 1934, and the order appointing him has become final. How the receiver's application to direct the fifth defendant to give him certain

particulars can be said to be incompetent, we are unable to follow. For the receiver to carry out his duties the information asked for is necessary. It

is difficult to support the learned Judge's statement that Official Receiver is not

subject to the directions of the Civil Court. It makes no difference

that the person against whom the order is made happens to be the Official Receiver; he is a party to the suit and is bound by the order made in his

presence. The Official Receiver, as much as any other party to the suit, is bound by the orders of the Court. This being so, the first part of the

order is a perfectly proper one and no possible exception can be taken to it. The plaintiff cannot carry on the administration without the particulars

being furnished and this part of the order therefore is, as already stated, unassailable.

3. Passing on to the second part of the order relating to the deposit, the application falls to be considered under two main headings:

(1) As regards the monies collected by the fifth defendant before the receiver order;

(2) As regards the amounts collected subsequent to the order, they fall under two sub-groups-

(a) those that accrued due before the order, and

(b) those that accrued due after the order.

4. Mr. Muthukrishna Aiyar, the plaintiff's counsel, says that his application was limited in the lower Court, and that it is so limited here, to the

monies falling under the second heading alone. That the plaintiff is entitled to the monies that accrued due after the receiver order (that is, monies

falling under group 2 (&), is admitted by the counsel for the Official Receiver. The lower Court, while allowing the plaintiff's application, reserved

the question of the ownership of the amounts falling under group 2(a). That seems to be the true interpretation of the order of the learned

Subordinate Judge and Mr. Muthukrishna Aiyar is willing to adopt it. That is to say, the lower Court's order relating to the deposit must be taken

to be limited to the monies falling under the two sub-groups of the second main heading above. We fail to see how in those circumstances the

Official Receiver has any ground of complaint at all.

5. We therefore reverse the order of Burn, J., and restore that of the Subordinate Judge. We make no order as to costs.