

---

**(1936) 08 MAD CK 0060**  
**In the Madras High Court**

Kaliappa Nadalwar and Others

APPELLANT

Vs

P. Pl. Pl. Ramaswami Chettiar and Another

RESPONDENT

---

**Date of Decision :** 31-08-1936

**Acts Referred:**

Provincial Insolvency Act, 1920 — Section 4

**Citation :** AIR 1936 Mad 955 : 166 Ind. Cas. 69 : (1936) 44 LW 650 : (1936) 71 MLJ 656

**Hon'ble Judges :** Cornish, J

**Bench :** Division Bench

---

**Judgement**

Cornish, J.—The appellant was petitioner u/s 4 of the Provincial Insolvency Act to have his title to certain property sold to him by the insolvent declared. The facts, which must be taken as found, are that on 30th March, 1926, the petitioner acquired by purchase for Rs. 6,000, the property from the insolvent, the property being sold to satisfy the claims of the mortgagee of the property. On 18th October, 1928, the insolvent filed his insolvency petition and was adjudged insolvent on 18th April, 1929. There can be no dispute, and there is none, that the sale to the petitioner was unimpeachable under the Insolvency Act, and that his title to the property was absolute against the Official Receiver. Nevertheless, the Official Receiver purported to sell the equity of redemption upon the property to second respondent for Rs. 200. The petitioner put his claim to the property before the Official Receiver, but that officer dismissed it as belated. Hence, the petition u/s 4. It was resisted by second respondent who claimed to have a good title by his purchase from the Official Receiver. It seems to me, therefore, there was essentially a question of title arising in this insolvency, and the Insolvency Court if it deemed it expedient to decide it for the purpose of doing complete justice had power to do so. The Insolvency Court did exercise its discretionary power and decided the question in favour of the petitioner. But on appeal the District Judge has reversed the lower Court's decision holding that it had no jurisdiction. In my opinion the District Judge has misconstrued and misapplied Venkataram v. Chockkier (1927) 55 M.L.J. 163 : ILR 51 Mad. 567 which he takes

as the foundation of his ruling. What is said there is:

Once the Official Receiver has sold the property to a stranger and converted the insolvent's estate into money, his business is to distribute this money among his creditors and it cannot be said that delivery of possession is a necessary part in the work of distributing the assets of the insolvent among the creditors. Where a claim is made against the insolvent himself in respect of his share only or against a rival purchaser of the insolvent's property itself the matter may be different.

2. The case does not lay down that the Insolvency Court has no jurisdiction but that it was not expedient for it to entertain a petition u/s 4; but the ruling distinctly recognises the possibility of the Insolvency Court dealing with a disputed title where one purchaser claims property against another purchaser of the insolvent's property.

3. This is undoubtedly the case here. The lower appellate Court was in error in treating the matter as one of jurisdiction. The first Court had jurisdiction and it chose to exercise its discretionary power in favour of the petitioner; and as I can discover no good ground for interfering with the exercise of that discretion this appeal is allowed with costs against the first respondent throughout and the 1st Court's order is restored.