

(1948) 11 MAD CK 0038
In the Madras High Court

Karuppasamy Goundar

APPELLANT

Vs

K.T. Krishnaswamy Goundar

RESPONDENT

Date of Decision : 15-11-1948

Acts Referred:

Citation : (1949) 1 MLJ 199

Hon'ble Judges : Satyanarayana Rao, J

Bench : Division Bench

Judgement

Satyanarayana Rao, J.—The only point that was argued in the Courts below was that the Registrar of Co-operative Societies had no power

to sell the properties in pursuance of the mortgage decree without an order of transfer of the decree from the Civil Court which passed the decree.

The language of Section 57-A of the Cooperative Societies Act is clear and so far as I am able to see, there does not seem to be any necessity for

a transfer of the decree. The section says:

The Registrar or any person subordinate to him empowered by the Registrar in this behalf may, subject to such rules as may be prescribed by the

Provincial Government and without prejudice to any other mode of recovery provided by or under this Act, recover-(a) any amount due under a

decree or order of a Civil Court, a decision or an award of the Registrar....

A decree was obtained by the Co-operative Society and under this section, the Registrar is entitled to execute the decree by bringing the property

to sale. Mr. Sivaramakrishna Aiyar, the learned advocate for the appellant, wanted to raise also a further question that under the Co-operative

Societies Act and the rules framed, thereunder it is obligatory on the part of the Registrar, before the property is sold, to give notice of the sale not

only to persons who are parties to the suit but also to others interested in the property, such as his clients. The point, though raised in the counter, has not been pursued either in the trial Court or in the appellate Court and I do not think it will be proper to allow the learned advocate to raise this question, even if there be such a requirement under the Co-operative Societies Act.

2. The result is the appeal fails and is dismissed with costs.

3. Time for vacating the property and delivering possession one month from this date. (Leave to appeal is refused.)