

(1919) 04 MAD CK 0029
In the Madras High Court

R. Velayudham Pillai and Another

APPELLANT

Vs

The Official Receiver of Tinnevely

RESPONDENT

Date of Decision : 25-04-1919

Acts Referred:

Citation : 52 Ind. Cas. 689

Hon'ble Judges : Oldfield, J;Abdur Rahim, J

Bench : Division Bench

Judgement

1. Section 42 of the Provincial Insolvency Act lays down ""where it is proved to the satisfaction of the Court that the debts of the insolvent have been paid in full, the Court shall, on the application of the debtor or of any other person interested, by order in writing annul the adjudication,"" The learned District Judge, in disposing of the appellants' petition under this section, says that as the payments had not been made through the Official Receiver, he could not grant the annulment sought for and has dismissed the petition. We do not understand how the learned Judge came to hold that, unless the payments alleged to have been made by the insolvent were made through the Official Receiver, annulment could not be granted. Section 42 does not require that the payments should be made through the Official Receiver, and Mr. T.R. Tenkatarama Sastri appearing for the Official Receiver is unable to cite any authority in support of the proposition laid down by the learned Judge. The learned Judge ought to have enquired into the truth of the allegations made by the petitioner and if he was able to prove that his debts had been paid in full, the adjudication should have been annulled. We, therefore, set aside the order of the District Judge and direct him to dispose of the petition in accordance with law.

Costs will abide the result.