

(1922) 11 MAD CK 0015
In the Madras High Court

Ramabadra Chetty

APPELLANT

Vs

V. Ramaswami Chetty and Others

RESPONDENT

Date of Decision : 09-11-1922

Acts Referred:

Citation : AIR 1923 Mad 350 : (1923) 17 LW 622 : (1923) 44 MLJ 284

Judgement

1. It is contended that the Court's power to interfere with a sale held by an Official Receiver is limited to cases where there has been some

malafides on the part of the Receiver or of the purchaser.

2. Reliance is placed on the case of Ex parte Lloyd: Re Peters (1882) 47 L.T. 64 where the Master of the Rolls observed that the Court would

not interfere unless the trustee did that which was so utterly unreasonable and absurd that no reasonable man would so act. The same objection

was taken in Thiruvengkatachariar v. Thangaya Ammal ILR 39 Mad. 479 and overruled. It was then observed ""It (the case of Ex parte Lloyd: Re

Peters (1882) 47 L.T. 64 is not an authority for the proposition that where proper reasons are given by a Court for holding that the action of the

Receiver was irregular and has prejudiced the general interests of the creditors, it should not set aside the order passed by the Receiver. ""We

adopt these observation in dealing with the present case where the Receiver's act was certainly irregular and prejudicial to the creditors in

accepting a far lower bid at the second sale.

3. The suggestion that the appellant had no opportunity to file a counter affidavit in the District Court is not acceptable in view of the entries in the

B diary which show that arguments were heard on three different days. The appeal is dismissed with costs. The costs in the District Court after the

demand by the High Court will be borne by the Official Receiver whose act occasioned the Court's interference. The costs of the appeal on the previous occasion are provided for in the lower Court's order and we allow that order to stand in that respect.