

(1922) 11 MAD CK 0051
In the Madras High Court

Ramabhadra Chetty

APPELLANT

Vs

V. Ramasami Chetty and Others

RESPONDENT

Date of Decision : 09-11-1922

Acts Referred:

Citation : 73 Ind. Cas. 374

Hon'ble Judges : Venkatasubba Rao, J;Spencer, J

Bench : Division Bench

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 mala fides on the part of the Receiver or of the purchaser.

2. Reliance is placed on the case of Ex parte Lloyd, In re Peters (1883) 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. Thangayi Ammal 29 Ind. Cas. 294 : 39 M. 479 : 17 M.L.T. 432 and overruled. It was then observed: "It [the case of Ex parte Llyod, In re Peters (1883) 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 observations 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 remand 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 the order to stand in that respect.