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(1925) 11 BOM CK 0030

In the Bombay High Court

Case No : Appeal No. 358 of 1924

Sayed Mahomed Raja Sayed Sadak Miya APPELLANT

Vs

Thakordas Chaturbhujdas RESPONDENT

Date of Decision : 12-11-1925

Acts Referred:

Citation : (1926) 28 BOMLR 590

Hon'ble Judges : Norman Maeleod, J;Coyajee, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Norman Macleod Kt., C.J.—In this case the defendants'' property was sold in execution by the Collector acting in accordance with the rules in the third Schedule of the Civil Procedure Code. When the sale proceeds were received by the Court, a deduction of Rs. 180 was made for poundage according to the table of fees appearing at pages 204-205 of the Manual of Circulars issued by the High Court for the guidance of civil Courts. The fee for every sale of moveable or Immovable property is a percentage or poundage on the gross amount realized by the sale up to Rs. 1,000 at the rate of two per cent, together with a further fee on all excess of gross proceeds above Rs. 1,000 at the rate of one per cent; subject to certain provisions.

2. The appellant claims that from the poundage can be deducted the expenses of the sale. As a result, in many cases, the poundage would disappear altogether. We have not been referred to any authority for such a proposition. Since the rules and the table of fees provide a levy of poundage we cannot hold that any deduction can be made from that poundage except as provided for by the rules and table of fees. Rule 9 of the third Schedule to the CPC provides that the Collector shall deduct his expenses for performing the duties charged upon him by the Schedule and remit the balance to the Court, The levy of poundage has nothing whatever to do with the expenses of such sales.

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3. The appeal, therefore, will be dismissed with costs.

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