

(1945) 10 MAD CK 0006
In the Madras High Court

Sayyed Khasim Sahib and Another	APPELLANT
Vs	
The Official Receiver, Guntur and Another	RESPONDENT

Date of Decision : 11-10-1945

Acts Referred:

Citation : (1945) 58 LW 641 : (1945) 2 MLJ 553

Hon'ble Judges : Yahya Ali, J

Bench : Division Bench

Judgement

Yahya Ali, J.—Both these petitions involve the same point. An insolvent's property was sold and two persons who are the petitioners in

these matters purchased the respective items. One of the creditors filed an application u/s 68 of the Provincial Insolvency Act to set aside the sales.

The first Court upheld the sales, but on appeal by the creditor the District judge set aside the sales and directed fresh sales to be held.

2. Two objections were taken by the purchasers. The first objection was that the creditor, being a person who had not proved his debt either by

the date of the sales or by the date of his application, had no locus standi to maintain the application, not being an aggrieved person within the

meaning of Section 68. The second objection was one based on the merits--that the price fetched was not low and that there was no irregularity in

the conduct of the sales.

3. With reference to the first objection, the learned District Judge held, differing from the learned Subordinate Judge, who first heard the petition,

that the Court was competent to entertain the matter. The learned District Judge pointed out that the creditor had applied on 9th June, 1942, for

being added as a supplemental creditor in the schedule of proved creditors and

that final orders on that application were passed on 27th August, 1943, so that on the date when the first Court passed its order on the petition the creditor had been added as a supplemental creditor in the schedule. Apart from that circumstance, the learned District Judge relying upon *Data Ram v. Deokinandan* I.L.R.(1919)Lah. 307: 58 I.C. 6 held that it is not merely the insolvent or the creditors or any other aggrieved person who can take action to bring the conduct of a receiver in any particular respect to the notice of the Court; but the receiver being an officer of the Court, when it comes to the knowledge of the Court that his action in any particular respect is objectionable, the Court has inherent powers to rectify his errors or mistakes or to reverse or modify his acts or decisions. This decision does not stand alone. The same view was expressed by a Division Bench of the Calcutta High Court in *Hanseswar Ghosh v. Rahhal Das Ghose* (1913) 20 I.C. 683 where relying upon three English cases the learned Judges held that when a receiver has been appointed, he becomes an officer of the Court, and if he is about to act in excess of his authority, it is competent even to a stranger to bring that fact to the notice of the Court, which has inherent power to review the conduct of the receiver, so that the stranger may not be prejudiced by an unlawful act of its own officer. In these circumstances the first objection must fail.

4. As regards the second objection, the learned District Judge has mentioned a number of circumstances which definitely suggest that the sales were conducted without giving due publicity and in a manner which, to say the least, is suspicious. The price fetched was undoubtedly low. That is the view taken by both the Courts below. In these circumstances the learned District Judge was perfectly right in setting aside the sales and directing fresh sales to be held.

5. Both the revision petitions are dismissed with costs--different sets.