

(1900) 11 MAD CK 0005
In the Madras High Court

Subrahmania Ayyar

APPELLANT

Vs

Rangappa Kalakka Thola Udatar

RESPONDENT

Date of Decision : 21-11-1900

Acts Referred:

Citation : (1901) ILR (Mad) 307

Hon'ble Judges : Subrahmania Ayyar, J;Boddam, J

Bench : Division Bench

Judgement

1. The plaintiff (appellant) seeks to set aside a sale of his Immovable property under a distress for rent.

2. It is contended that, because a bid equal to the amount of the arrears was made for a portion of the plaintiff's property which had been so

distrained for arrears of rent, the landlord's claims was thereby satisfied u/s 33 of Act VIII of 1865 though the amount bid was not paid; and also

that a subsequent sale of the rest of his property was illegal as the only remedy lay in. taking proceedings against the defaulting purchaser. We

cannot agree with this contention see Anandra v Bapuji v. Shekh Baba ILR 2 Bom. 562. The arrear is only satisfied by a sale when the amount bid

is paid, till when the debt is still subsisting Khiroda Moyee Dossee v. Golam Somdane 21 W.R. 149. Notice to the plaintiff of the second sale

was not necessary u/s 39 of Act VIII of 1865.

3. There was no allegation in the plaint nor proof that the requirements of the law in regard to publication of the second sale were not complied

with. Even if there were any irregularity in that; respect, we are of opinion that that would not be a sufficient ground for setting aside the sale.

4. The second appeal is dismissed with costs.