

Balasubramania Raghunatha Rangaswami
Singapular - - - - - - - - *Appellant*

v.

S. T. Nagappa Chettiar alias Chockalinga
Chettiar (since deceased) now represented
by S. T. Muthiah Chettiar and others - - - *Respondents*

FROM

THE HIGH COURT OF JUDICATURE AT MADRAS

JUDGMENT OF THE LORDS OF THE JUDICIAL COMMITTEE OF
THE PRIVY COUNCIL, DELIVERED THE 19TH JULY, 1948

Present at the Hearing :

LORD SIMONDS
LORD MACDERMOTT
SIR JOHN BEAUMONT

[*Delivered by* SIR JOHN BEAUMONT]

This is an appeal from a judgment and order of the High Court of Judicature at Madras dated the 22nd March, 1945, which varied a judgment and order of the court of the Subordinate Judge of Tanjore dated the 15th December, 1942.

The only matter for consideration in the appeal is the correctness or otherwise of the accounts of a receiver as a preliminary to his discharge following upon the final determination of the dispute between the parties to the litigation.

It is well established that in matters relating to accounts the Board will determine any question of principle involved but will not consider mere items of account. See Practice Note in L.R. 69 I.A. p. 172. The present appeal appears to involve no question of principle.

The original first respondent S. T. Nagappa Chettiar (hereafter referred to as "the receiver"), who has died pending the hearing of this appeal, was originally appointed receiver in the year 1924. The suit in which he was so appointed raised the question of the validity of a sale of 14 villages made by the predecessor in title of the appellant to the receiver in his private capacity. The suit resulted in its being held that the sale was invalid, but that the receiver was entitled to retain possession of the 14 villages until he had been paid a sum of Rs.85,000 with simple interest at 9 per cent. per annum, a sum which now amounts to over Rs.3 lacs.

In order to work out the final order in the suit it was necessary to take the accounts of the receiver. Various orders were made directing him to deliver accounts, and on two occasions certain of the accounts were audited. Eventually the Subordinate Judge to whom the suit had been transferred, appointed a commissioner to examine certain accounts of the receiver. The commissioner made a report to which both parties carried in exceptions.

At the hearing the Subordinate Judge came to the conclusion that the accounts delivered by the receiver were so unsatisfactory as to make it impracticable to act upon them, and he held that the receiver should be charged with a net income of Rs.9,000 per annum received from the 14 villages during a period of 18 years, making a sum of Rs.162,000. Debiting that amount to the receiver the Subordinate Judge found the balance due to him at Rs.148,228. The learned Judge however discussed an alternative method of fixing the amount due to the receiver, based as far as practicable on his accounts, and considered the allowances which it would be proper to make to the receiver on that basis.

In appeal the learned Judges of the High Court expressed the view that the Subordinate Judge was not justified in discarding the accounts altogether, and it is argued by the appellant that the learned Judges therein were wrong in principle. But the Judges of the High Court did not hold that the accounts should be treated as conclusive, nor do they seem to have acted upon them to any great extent. Obviously they were entitled to accept so much of the accounts as they thought reliable. The method which the learned Judges of the High Court adopted for working out the liability of the receiver was to take his gross receipts at Rs.2,72,986, a figure which they say was not in dispute, although the learned Subordinate Judge had considered that that figure should be reduced to Rs.2,28,049, and they then considered the allowances which should be made to the receiver, this being the alternative method which had been adopted by the Subordinate Judge. The two major points upon which the Judges of the High Court differed from the view of the Subordinate Judge were, first, that whereas the Subordinate Judge had expressed the view that 10 per cent. might be allowed for rents irrecoverable, the Judges of the High Court thought, for reasons which commend themselves to their Lordships, that 30 per cent. would be a fair allowance. The second point of difference related to establishment charges upon which the Judges of the High Court took a view more generous to the receiver than that which appealed to the Subordinate Judge, but the claim put forward by the receiver under this head was not accepted in full.

Having determined the basis on which the accounts should be taken the High Court remanded the case to the Lower Court to draw up an account in the light of the judgment. The case came on remand before a Subordinate Judge other than the Trial Judge, who drew up an account on the basis of the judgment of the High Court and found the amount due to the receiver at Rs.2,06,821. No objection has been taken to the judgment on remand if the judgment of the High Court was right.

As already indicated in the view of their Lordships there is no ground for suggesting that the High Court acted upon any wrong principle, and their Lordships may add that they see no ground for thinking that the High Court erred in respect of any of the items dealt with.

For these reasons their Lordships will humbly advise His Majesty that this appeal be dismissed with costs.

In the Privy Council

BALASUBRAMANIA RAGHUNATHA
RANGASWAMI SINGAPULIAR

v.

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CHOCKALINGA CHETTIAR (SINCE
DECEASED) NOW REPRESENTED
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DELIVERED BY
SIR JOHN BEAUMONT