

(Pedda) Kondappa Vs. (Ganne) Pullappa and ors.

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Court : Chennai

Decided On : Apr-30-1929

Reported in : AIR1929Mad910

Appellant : (Pedda) Kondappa

Respondent : (Ganne) Pullappa and ors.

Judgement :

Waller, J.

1. I am inclined to take the view that the appellant has been adjudicated on an act of insolvency not relied on in the application against him. The act of insolvency alleged in the application was the sale of the property to a person who was not a creditor. That might have been an act of insolvent. with reference to Section 53 of the Act. What, however, the Judge found was that an act of insolvency had been committed because the appellant had preferred some of the creditors by paying them off out of the proceeds of the sale. That seems to me to be a very different matter. The petitioning creditors did not put it forward. It was the appellant that put it forward as a defence.

2. I would dismiss the application, allowing the appeal with costs.

Pandalai, J.

3. I agree.

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