

CIVIL REVISION.

Before Guha and M. C. Ghose JJ.

DEBENDRANATH SADHUKHAN

v.

RADHAKISSEN CHAMARIA.*

1930

July 3.

Valuation—Valuation of the property to be sold, if must be estimated in every case—Code of Civil Procedure (Act V of 1918), O. XXI, r. 66.

It cannot be laid down as a general proposition that under Order XXI, rule 66 of the Code of Civil Procedure, in every case a fairly accurate valuation of the property to be sold in execution should be determined by the court and stated in the sale proclamation. The court may be justified in stating two separate valuations as given by the decree-holder and the judgment-debtor, if it be not possible to estimate the value with any degree of accuracy.

Lachram v. Rameshwar Singh (1) and Bejoy Singh Duduria v. Ashutosh Gossami (2) referred to.

CIVIL RULE obtained by the judgment-debtor.

The facts sufficiently appear from the judgment of the Court.

Prakashchandra Majumdar for the petitioner.

Gunadacharan Sen and *Shantimay Majumdar* for the opposite party.

GUHA J. We are invited in this Rule to set aside the orders passed by the learned Subordinate Judge of Howrah, on the 4th April, and the 9th May, 1930, in Miscellaneous Case No. 18 of 1929, arising out of Title Execution Case No. 91 of 1928. The effect of these two orders appears to be this that the valuation stated by the decree-holders, on the one hand, and that made by the judgment-debtor's engineer, on the other, of the properties to be sold in execution of a

* Civil Revision, No. 775 of 1930, against the orders of P. B. Banerji, Subordinate Judge of Howrah, dated April 4, 1930, and May 9, 1930, respectively.

(1) (1928) C. Rev. 370 of 1928 decided (2) (1928) 28 C. W. N. 552 on the 4th April.

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decree have been stated, in the proclamation of sale, drawn up under Order XXI, rule 66, of the Code of Civil Procedure, without an enquiry by the court, as to the valuation of the properties. As it has been repeatedly held in this Court, it is desirable that an enquiry should be made by the court executing a decree, for the purpose of arriving at a fairly accurate valuation of the property to be sold in execution, and to state the value so determined in the sale proclamation. It cannot, however, be laid down as a general proposition that it must be done in every case. The court might, in the circumstances of a particular case, be justified in stating two separate valuations of the property to be sold, as given by the decree-holder and the judgment-debtor, as it may not be possible, even on an elaborate and careful enquiry, to estimate the value, with any degree of accuracy, and state the valuation in the proclamation of sale, so as to satisfy strictly the requirements of the law, as contained in Order XXI, rule 66 (2) (e). Reference in this connection may be made to the judgment of this Court in *Lachram v. Rameshwar Singh* (1), as also to the case of *Bejoy Singh Duduria v. Ashutosh Gossami* (2). The facts of the case, giving rise to the application, on which this Rule was granted, have been placed before us in detail. On a careful consideration of the facts and circumstances of the case, and of the materials on the record, some of which, we have examined for ourselves, we are unable to say that the orders passed by the Subordinate Judge, of which mention has been made above, call for an interference under the powers of revision vested in this Court. In view particularly of the litigations pending in different courts, to which reference has been made in the affidavit filed on behalf of the opposite party in this Rule, it would not, in our judgment, be possible for the court below to make an estimate of the value of the properties to be sold in execution, either accurately, or in a manner acceptable to the parties,

(1) (1928) C. Rev. 370 of 1928 decided (2) (1923) 28 C. W. N. 552.
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and to state the value in the proclamation of sale, as a reliable piece of information for the intending purchaser.

In the result, we affirm the orders against which this Rule is directed, and discharge the Rule with costs. The hearing fee is assessed at three gold mohurs.

M. C. GHOSE J. I agree.

Rule discharged.

A. C. R. C.

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