

NAGANNA
NAYUDU
v.
PATTABHI-
RAMAYYA.

the order of the District Registrar, Kistna, passed in Will Inquiry No. 6 of 1925.

The material facts appear from the judgment.

L. Venkatanarasayya for petitioner.

Gh. Raghava Rao and *S. Ramachandran* for respondent.

JUDGMENT.

I do not think that this Court has any power to interfere. The Joint Sub-Registrar acts under section 75 (4) of the Indian Registration Act merely as if he were a Civil Court. I do not think that he is a Court subordinate to this Court within the meaning of section 115 of the Code of Civil Procedure.

The petition is dismissed with costs.

K.R.

APPELLATE CIVIL.

Before Mr. Justice Jackson.

1927,
November 25.

RAMACHANDRA UPADYA AND ANOTHER (PETITIONERS),
PETITIONERS,

v.

SRINIVASA TANTRI AND ANOTHER (1ST AND 3RD RESPONDENTS,
DECREE-HOLDER AND PURCHASER), RESPONDENTS.*

*Civil Procedure Code (Act V of 1908), O. XXI, r. 89—
Sale in auction of the share of a member of a joint Hindu
family—Application by another member to set aside sale
under O. XXI, r. 89, whether competent.*

In a joint Hindu family, when the share of one brother is sold in execution, another brother can apply, under Order XXI, rule 89, of the Civil Procedure Code, to set aside the sale on depositing the amount specified in the rule, as a person holding

* Civil Revision Petition No. 1062 of 1926.

an interest in the property sold. *Rottala Runganatham Chetty v. Pulicat Ramaswami Chetti*, (1904) I.L.R., 27 Mad., 162, referred to.

RAMA-
CHANDRA
UPADYA
v.
SRINIVASA
TANTRI.

PETITION under section 115, Civil Procedure Code, to revise the order of the District Court of South Kanara, passed in C.M.A. No. 19 of 1925 in R.E.A. No. 183 of 1925 in R.E.P. No. 1216 of 1924 on the file of the District Munsif of Kondapur in Original Suit No. 454 of 1924.

The material facts appear from the judgment.

B. Sitarama Rao for petitioner.

K. Yegnanarayana Adiga for respondents.

JUDGMENT.

The question for determination is whether in a joint family, when the share of one brother is sold in execution, another brother can deposit under Order XXI, rule 89 of the Code of Civil Procedure, as a person holding an interest in the property sold. It is held in *Rottala Runganatham Chetty v. Pulicat Ramaswami Chetti*(1), that every member of an undivided family has an interest in joint family property, that is to say, not the share of each, but the whole corpus of the property. Then if such member prefers to pay another member's debts rather than see the ancestral property pass to strangers (a transaction which may easily involve the family in discredit and inconvenience) there is no objection to his doing so. The petition is allowed with costs throughout; if petitioner pays the deposit within two weeks of receipt of this order, it may be accepted.

K. R.

(1) (1904) I.L.R., 27 Mad., 162.
