

APPELLATE CIVIL.

Before Mr. Justice Waller and Mr. Justice Krishnan Pandalai.

YANATI VENKATARAGHAVAMMA (PETITIONER—FIRST
DEFENDANT), APPELLANT,

1931,
July 31.

v.

BYRISETTY SINGARAYYA SETTY AND THREE OTHERS
(PLAINTIFFS NOS. 1 AND 2 AND AUCTION-PURCHASERS),
RESPONDENTS.*

Code of Civil Procedure (Act V of 1908), O. XXI, r. 66 (2) (e)
—*Litigation concerning property sold—Existence of—Inti-*
mation to intending buyers of—Propriety of.

Under rule 66 (2) (e) of Order XXI of the Code of Civil Procedure, the Court is directed to specify "every other thing which the Court considers material for a purchaser to know in order to judge the nature and value of the property". Where, therefore, the Court thinks that it is material for intending buyers to know that the property is under litigation, it is entirely justified in directing the amin to give them that information.

Observations of SESHAGIRI AYYAR J. in *Venkataratnam v. Ranganayakamma*, (1918) I.L.R. 41 Mad. 985, 997 (F.B.), on the undesirability of issuing such warnings, dissented from.

APPEAL against the order of the District Court of Nellore, dated 15th September 1927, and made in Execution Application No. 191 of 1927 in Original Suit No. 56 of 1925 on the file of the Court of the Subordinate Judge of Nellore.

P. Venkataramana Rao for appellant.

M. Ramachandra Rao for respondents.

Our. adv. vult.

The JUDGMENT of the Court was delivered by
WALLER J.—This is an appeal against an order refus- WALLER J.
ing to set aside a sale in execution. Only two of the

* Appeal against Order No. 364 of 1927.

VENKATA-
RAGHAVAMMA
v.
SINGARAYYA
SETTY.
WALLER J.

grounds urged before the lower Court are pressed here. The first is that bidders were scared away by a notification issued at the sale itself, warning them that the appellant's daughter's claim to the property had been dismissed and that she had filed a suit. Reliance is placed on some observations by SESHAGIRI AYYAR J. in *Venkataratnam v. Ranganayakamm*(1) on the undesirability of issuing such warnings. With great respect we must express our dissent. Rule 66 (2) (e) of Order XXI of the Code of Civil Procedure directs the Court to specify

“every other thing which the Court considers material for a purchaser to know in order to judge the nature and value of the property.”

In this instance, the Court thought that it was material for intending buyers to know that the property was under litigation and directed the amin to give them that information and we think that it was entirely justified in doing so. Nor does the complaint come very well from the appellant, for it seems tolerably obvious that it is she that is responsible for her daughter's effort to defeat or delay the decree and the sale under it.

The next complaint is that the sale was illegal as it was adjourned for over seven days. What happened was that the sale went on from day to day continuously from 18th to 29th April which was neither illegal nor irregular. It was not adjourned in the proper sense of the word. The Judge was, no doubt, absent for three days, while the sale was going on, but it appears that he had issued a general order that all sales were to continue till his return.

We find on both points against the appellant. Assuming that there had been irregularities, it is for

(1) (1918) I.L.R. 41 Mad. 985, 997 (F.B.).

her to show that they caused her substantial injury. She complains that land worth Rs. 40,000 was sold for Rs. 6,000-odd. [His Lordship discussed the evidence and concluded that the land fetched much less than its value owing to the fault of the appellant herself and dismissed the appeal with costs.]

VENKATA-
BAGHAVANNA
v.
SINGARAYYA
SETTY.

A.S.V.

APPELLATE CIVIL.

Before Mr. Justice Reilly and Mr. Justice Anantakrishna Ayyar.

THE MUNICIPAL COUNCIL, ANANTAPUR REPRESENTED
BY ITS CHAIRMAN (SECOND DEPENDANT—RESPONDENT),
APPELLANT,

1931,
July 20.

v.

SANGALI VASUDEVA RAO (PLAINTIFF—APPELLANT),
RESPONDENT.*

*Madras District Municipalities Act (V of 1920), sch. IV, r. 9—
Enhancement of assessment of property—Notification under
r. 9 of sch. IV—Necessity—Notice in conformity with
requirements of r. 9—What amounts to—sec. 80 of Act—
Publication in District Gazette not condition precedent to
validity of levy of tax under—Revised assessment on which
tax imposed illegal—Tax-payer liable on old assessment—
Code of Civil Procedure (Act V of 1908), sec. 80—Public
officer—Municipal Council not a.*

Under the Madras District Municipalities Act (V of 1920) an enhancement of assessment of property is illegal in the absence of the notification required by rule 9 of Schedule IV of the Act.

A notice that the Municipal Council “proposes to revise the taxes” is not a notice in conformity with the requirements of

* Letters Patent Appeals Nos. 93 and 108 of 1930.