

Before Mr. Justice Pearson and Mr. Justice Spankie.

MAHABIR PRASAD (AUCTION-PURCHASER) v. DHUMAN DAS
(DECREE-HOLDER.)*

1881
February

Sale in execution—Act X of 1877 (Civil Procedure Code), s. 313.

A person who purchases immoveable property at a sale in execution of a decree, knowing that the judgment-debtor has no saleable therein, is not entitled to the benefit of the provisions of s. 313 of Act X of 1877, which were designed for the protection of persons who innocently and ignorantly purchase valueless property.

ONE Mahabir Prasad, who had purchased certain immoveable property at a sale in execution of a decree, which had taken place on the 22nd September, 1879, applied to the Court executing the decree, under s. 313 of Act X of 1877, to set aside such sale on the ground that the judgment-debtor had no saleable interest in such property, his interest therein having been previously sold in execution of a decree on the 20th June, 1878. The Court refused this application on the ground, amongst others, that the applicant had purchased knowing that the previous sale had taken place. The applicant appealed to the High Court.

Lala Lalta Prasad, for the appellant.

Pandit Bishambhar Nath, for the respondent.

The judgment of the Court (PEARSON J., and SPANKIE, J.,) was delivered by

PEARSON, J.—As the appellant was himself the purchaser of the property at the former sale, and again knowingly purchased it at the recent sale, he does not appear to be entitled to the benefit of the provisions of s. 313 of the Code, which were presumably designed for the protection of persons who innocently and ignorantly purchased valueless property. Seeing no sufficient reason to interfere, we dismiss the appeal with costs.

Appeal dismissed

* First Appeal, No. 168 of 1880 from an order of Hakim Rahat Ali, Subordinate Judge of Gorakhpur, dated the 12th June, 1880.