

L. MOOLCHAND AND ORS.

A

v.

FATIMA SULTANA BEGUM AND ORS.

NOVEMBER 14, 1995

[M.M. PUNCHHI AND S.C. SEN, JJ.]

B

*Code of Civil Procedure, 1908 :*

*S. 151, O. 21 R. 90—Court sale—Objections to—Maintainability of—Held, interests of justice are primary consideration in deciding a petition under S. 151—High Court rightly permitted trial court to examine the objections.*

C

The purchasers of the property sold in a sale conducted by receivers appointed by Court in an administrative suit, filed the present appeal against the order of the High Court directing the Trial Court to decide on merits the application under S.151 CPC raising objections to the sale.

D

Dismissing the appeal, this Court

**HELD : 1.** In an administrative suit, the receivers appointed by the Court to perform a function are agents of the Court and like a good principal, the Court can put the receivers to accountability. To awaken the role of the Court in that behalf, applications by the parties connected with the suit, are perfectly in order to obviate any doubt entering in that regard and to effect a sense of transparency so that no blame or aspersion is cast on the Court for its having handled the matter in a particular way. The Court's role is of a balancer. [230-F-G]

E

F

**2.** Interests of justice are the primary consideration in granting or not granting prayers in a petition under S. 151 CPC. No rule or procedure can curtail that power of the Court. The High Court has rightly permitted the Trial Court to examine the objections raised. [230-H; 231-A]

G

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 1081 of 1976.

From the Judgment and Order dated 21.7.76 of the Andhra Pradesh High Court in Appeal against Order No. 15/74.

H

A B. Kanta Rao for the Appellants.

A. Subba Rao for the Respondents.

The following Order of the Court was delivered :

B In an administrative suit, the parties had agreed for sale of a property at Ootacamund in the State of Tamil Nadu. The receivers appointed by the Court for the purpose sold the said property. The appellants herein are the purchasers thereof. Some of the parties to the suit raised objections to the sale purporting to be under Order 21, Rule 90 read with section 151  
C CPC. An objection was raised before the Trial Court that such objections were not maintainable. The Trial Court framed a preliminary issue and went into the matter. It rejected the application being not maintainable. The respondents herein took the matter in appeal to the High Court which was placed before a Division Bench for disposal. The High Court agreed with the Trial Court that an objection under Order 21, Rule 90 CPC to  
D such a sale did not lie. But, since the sale had been effected by the Court through its appointed receivers, the High Court viewed that the Court had full control and grip over the matter, empowering it to oversee whether the sale had been properly conducted and if there was any other objection thereto, what was the merit of the objection. This role of the Court was  
E spelled out by the High Court to be within the domain of Section 151 CPC which recognises and preserves the inherent powers of the Civil Court. It is for that purpose that the High Court effected a remand to the Trial Court to go into the matter, holding the application filed by the respondents maintainable. That view is in question before this Court.

F After hearing learned counsel for the parties, we are in total unison with the views expressed by the High Court. In an administrative suit, the receivers appointed by the Court to perform (a) function are agents of the Court and like a good principal, the Court can put the receivers to  
G accountability. To awaken the role of the Court in that behalf, applications by the parties connected with the suit, are perfectly in order to obviate any doubt entering in that regard and to effect a sense of transparency so that no blame or aspersion is cast on the Court for its having handled the matter in a particular way. The Court's role is of a balancer.

H It has also to be borne in mind that interests of justice are the primary consideration in granting or not granting prayers in a petition

under Sec. 151 CPC. No rule or procedure can curtail that power of the Court. The High Court rightly has pursued that path in permitting the Trial Court to examine the objections raised, to promote the cause of justice. We, therefore, see no reason to interfere in the said order. **A**

The appeal, therefore, fails and is hereby dismissed, but without any order as to costs. **B**

R.P.

Appeal dismissed.