

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS.177-178 OF 2015
(Arising out of SLP(C)Nos.27517-27518/2011)

M. VARA KUMARI

APPELLANT

VERSUS

KOVILKAR LAKSHMOJI RAO

RESPONDENT

O R D E R

Leave granted. Heard learned counsel for the parties.

2. An auction sale was conducted on 30th December, 2004 and the appellant purchased the suit scheduled property in a court auction for a sum of Rs.1,69,000/- (Rupees One Lakh Sixty Nine Thousand). The judgment-debtor had preferred various objections, all of which were dismissed by an order dated 19.7.2004. Thereafter, the judgment-debtor filed an application under Order 21 Rule 90 of the Code of Civil Procedure to set aside the sale alleging that the decree holder committed fraud in publishing the proclamation and conducting of the sale and that there were various irregularities thanks to which substantial injury was caused to him. Even the said application was dismissed on 26.6.2006.

3. The auction purchaser filed an application before the Executing Court stating that after she purchased the property, the judgment-debtor blocked access to the property by constructing a compound wall and applied to the Executing Court to remove the said

wall. This was granted by the Executing Court vide its order dated 31.3.2008 in which the Executing Court referred to the objections filed by the judgment-debtor which had been dismissed and the application under Order 21 Rule 90 having been dismissed and then stated that the judgment-debtor had constructed a new wall which obstructed the auction purchaser's entry into the premises and ordered demolition of the same. In a Revision filed under Article 227 of the Constitution of India, by the impugned judgment, the High Court of Andhra Pradesh allowed the Revision and upset the judgment dated 31.3.2008 on the ground that the auction purchaser did not purchase any easementary right in the auction and, therefore, had no right to enter his own premises.

4. It is well settled that the jurisdiction under Article 227 of the Constitution of India is a supervisory jurisdiction and at best the High Court could interfere only if the finding is said to be perverse. The finding of the Court of Principal Junior Civil Judge in the order dated 31.3.2008 was that a new wall had been constructed after the auction sale had taken place which effectively blocked all ingress and egress to approach the property purchased by the auction purchaser. There is nothing perverse in this finding. On the contrary, the High Court interfered with this finding on the ground that the auction purchaser had not purchased any easementary right, which is not correct for the simple reason that no such right needed to be purchased as entry to the premises was available on the date of the auction and was blocked by the judgment debtor only thereafter. On

this short ground, we allow these appeals and set aside the impugned judgment and order dated 8.8.2011 of the High Court and restore the order dated 31.3.2008 of the Court of Principal Junior Civil Judge. Parties to bear their own costs.

.....J.
(J. CHELAMESWAR)

.....J.
(ROHINTON FALI NARIMAN)

New Delhi;
January 08, 2015.

ITEM NO.204

COURT NO.7

SECTION XIIA

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s).27517-27518/2011

(Arising out of impugned final judgment and order dated 08/08/2011 in CRP No. 1576/2008,08/08/2011 in CRP No. 1577/2008 passed by the High Court Of A.P. At Hyderabad)

M. VARA KUMARI

Petitioner(s)

VERSUS

KOVILKAR LAKSHMOJI RAO

Respondent(s)

(With interim relief and office report)
(For final disposal)

Date : 08/01/2015 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE J. CHELAMESWAR
HON'BLE MR. JUSTICE ROHINTON FALI NARIMAN

For Petitioner(s) Mr. Rana Mukherjee,Adv.
Mr. V. Sridhar Reddy,Adv.
Mr. V. N. Raghupathy,Adv.

For Respondent(s) Mr. Chandra Mohan Anisetty
Ms. T. Anamika,Adv.

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

Appeals are allowed, in terms of the signed order.

[O.P. SHARMA]
COURT MASTER

[INDU BALA KAPUR]
COURT MASTER

(Signed order is placed on the file)