

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
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Executing Court stating that after she purchased the property, the Om Parkash Sharma
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Reason:

judgment-debtor blocked access to the property by constructing a compound wall and applied to the Executing Court to remove the said

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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 t

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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.

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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.

