

Moolchand And Others

Vs

Fatima Sultana Begum and Others

Civil Appeal No. 1081 of 1976

(S. C.Sen, M. M. Punchhi JJ)

14.11.1995

ORDER

1. 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 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 as 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 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 spelled out by the High Court to be within the domain of Section 151 SPC 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.

2. 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 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 on 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.

3. It has also to be born in mind that interests of justice are the primary consideration in granting or not granting prayers in a petition under Section 151 CPC. No rule or procedure can curtail that power of the court. The High Court has rightly 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.

4. The appeal, therefore, fails and is hereby dismissed. But without any order as to costs.