

CALCUTTA HIGH COURT

Golam Hossein Cassim Arif

Vs

Fatima Begum

(Fletcher, J.)

04.04.1910

JUDGMENT

Fletcher, J.

1. This is an application by a purchaser at a sale held by a Receiver, under an order of Court for a sale certificate and for confirmation of the sale. The purchaser relies upon a decision of Sale, J. in the case of Minatunnessa Bibee v. Khatoonnessa Bibee 21 C. 479. The short point is whether a sale by a Receiver under the direction of the Court is a sale by the Court so as to enable or require the purchaser to obtain a sale certificate. With the utmost respect for the learned Judge, I think he has made a confusion between a sale by the Court and a sale under the Court. There are two classes of sales in suits: first, sales by the Court and second, sales under the Court. Sales by the Court are cases in which the Court makes a title to the purchaser and the Court confirms the sale and issues a sale certificate, The second class is where the Court authorizes a trustee, Receiver or other person holding property to sell the property and the sale is made out of Court, the Court while authorizing or directing the sale does not make any title to the purchaser and in such a sale the Court does not grant a sale certificate nor does it confirm the sale. I am of opinion that the purchaser can rest content upon his purchase without having the sale confirmed by the Court or having a sale certificate issued to him.'

2. I certify this case for counsel.