

Achamma Vs. Basappa

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Court : Chennai

Decided On : Sep-09-1897

Reported in : (1898)8MLJ1

Appellant : Achamma

Respondent : Basappa

Judgement :

1. The District Munsif's Court at Bellary which passed the decree ordered the transfer of execution of the decree to the District Munsif's Court at Gooty.
2. It is Contended that in doing so the Bellary Court was misled as to the existence of property in Gooty by the representations then made on behalf of the judgment creditor. Assuming that it was so misled, that did not affect the validity of the order. The Court at Gooty in executing that decree was, therefore, acting lawfully and the sale cannot be impeached on the ground that the latter Court had no jurisdiction.
3. As to the next objection to the sale, we are clearly of opinion that what was attached and sold was the mortgage bond. The omission to attach the immovable property hypothecated by the bond under Section 274, was a mere irregularity which does not affect the sale. The sale was not opposed by the judgment-debtor and became final, Muniappa Naik v. Subramania Ayyan, I.L.R. 18 M. 437. The mortgagor is not entitled to question the sale on the ground of irregularity.

4. We must, therefore, set aside the decrees of the lower Courts and remand the suit for disposal.

5. Costs will abide and follow the event.

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