

Agra Bank Vs. Hamlin

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Court : Chennai

Decided On : Oct-08-1890

Reported in : (1891)ILR14Mad235

Judge : Muttusami Ayyar and ;Best, JJ.

Appellant : Agra Bank

Respondent : Hamlin

Judgement :

Muttusami Ayyar, J.

1. On the 20th January 1890, two estates known as 'Chembali' and 'Burnside' were put up for sale in execution of the decree in Original Suit No. 1 of 1889, on the file of the Subordinate Court at Ootacamund. Mr. David bid, on behalf of the plaintiff, Rs. 10,005 for 'Chembali' and Rs. 3,005 for 'Burnside'; but he intimated his wish to withdraw these bids to the nazir on the 21st January and to the Subordinate Judge on the 22nd. The Subordinate Judge refers to this Court the question whether it is permissible for bidders at Court sales to withdraw their bids.

2. I am of opinion that the answer must be in the affirmative. Until the lot is knocked down and the sale is concluded, the Court may, in its discretion, adjourn the sale under Section 290, Civil Procedure Code, and it is bound to stop the sale if the judgment-debtor satisfies the decree before the lot is knocked down. It is

clear then that, until the lot is knocked down, the Court has a locus penitentia and it follows, in the absence of some specific provision to the contrary, that bidders are intended to be placed in a similar position. It appears that, in the case under reference, it was not one of the conditions of sale that bidders were not at liberty to withdraw their bids. For these reasons, I answer the question in the affirmative.

Best, J.

3. The question submitted for consideration is whether it is permissible for bidders at Court sales to withdraw their bids? I agree in answering this question in the affirmative. An offer to buy or sell may be retracted at any time before it is unconditionally and completely accepted, by words or conduct; and a bidding at an auction is a mere offer which may be retracted before the hammer is down. Such is the rule with regard to auctions in general, and the same must be held to be applicable also to Court auctions, in the absence of any law or rule to the contrary.

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