

Fazil Meah Vs. Prosanna Kumar Roy Decree-holder, Idris Meah and ors.

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Court : Kolkata

Decided On : Feb-13-1922

Reported in : AIR1923Cal316(1),68Ind.Cas.305

Judge : Newbould, J.

Appellant : Fazil Meah

Respondent : Prosanna Kumar Roy Decree-holder, Idris Meah and ors.

Judgement :

Newbould, J.

1. The petitioner in this case made a bid for Rs. 450 for a certain property which was being sold by the Court in execution of a decree. The actual sale was held by the Nazir who accepted this bid and the petitioner at once made the necessary deposit of 815 percent. However, soon after the property had been knocked down the opposite party No. 10, Emadadulla, applied to the Munsif for a resale of the property offering a bid of Ra. 700. On this the Munsif ordered a re sale of the property which was knocked down to Emdadulla for this sum. For the petitioner it is said that the knocking down of the property by the Nazir and the acceptance of the deposit made the gale final and the Munsif had no jurisdiction to put the property up again. A similar point came up for decision in the case of Bakhal Chandra Butt v. Sitanath Roy, Civil Revision Case No. 241 of 1921, It was there decided that a sale was not concluded when a property was knocked down and

the deposit made. Having regard to the provisions of the third condition of sale set out in Form No. 29, Appendix E, of the First Schedule of the Civil Procedure Code, I think the Court had discretion in the matter, and the order directing a re-sale of the property was not made without jurisdiction. Taking this view of the matter this Rule must be discharged with costs. Hearing fee one gold mohur.

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