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Miller Vs. Hatfield

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Court : US Supreme Court

Decided On : Jan-15-1940

Appeal No. : 309 U.S. 1

Appellant : Miller

Respondent : Hatfield

Judgement :

Miller v. Hatfield - 309 U.S. 1 (1940)
U.S. Supreme Court Miller v. Hatfield, 309 U.S. 1 (1940)

Miller v. Hatfield

No. 237

Argued January 5, 1940

Decided January 15, 1940

309 U.S. 1

CERTIORARI TO THE CIRCUIT COURT OF APPEALS

FOR THE SIXTH CIRCUIT

SYLLABUS

Upon finding that a necessary party to an appeal is absent, the Circuit Court of Appeals should sustain a motion of the appellant for a citation to bring him in, not dismiss the appeal.

101 F.2d 748 reversed.

PER CURIAM.

This proceeding was instituted by a farmer debtor pursuant to Section 75 of the Bankruptcy Act. Under an order of the District Court, approving an order of the conciliation commissioner, petitioner's farm was sold to one of the co-trustees of a mortgage upon the property, and the sale was confirmed by the District Court.

A petition for rehearing was denied. Upon appeal to the Circuit Court of Appeals, that court found that the purchaser at the sale was not a party to the appeal, and

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dismissed it. Petitioner sought a rehearing upon the ground that the purchaser had actual notice of the appeal, and had appeared in the Court of Appeals joining in an objection to an enlargement of time for filing the record and also seeking appointment of a receiver or an additional supersedeas bond. Petitioner also asked that, if it be considered that the purchaser was not already before the court, a citation should be issued to bring him in. The Court of Appeals denied both applications. Certiorari was granted, 308 U.S. 534.

We are of the opinion that the action of the Court of Appeals was erroneous. If the court deemed the purchaser to be a necessary party and not before the court, the motion to issue a citation to him should have been granted. R.S. 954, 28 U.S.C. 777; *Dodge v. Knowles,* 114 U. S. 430 , 114 U. S. 438 ; *Knickerbocker Life Insurance Co. v. Pendleton,* 115 U. S. 339 ; *In re Knox-Powell-Stockton Co.,* 97 F.2d 61.

The decree is reversed, and the cause is remanded to the Circuit Court of Appeals for further proceedings in conformity with this opinion.

Reversed and remanded.

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