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 RANCHHOD  
 VARAJBHAI  
 v.  
 THE MUNICIPALITY OF  
 DAKOR.

on account of a tax illegally made, and Blackburn and Lush, JJ., held that the defendant, a surveyor of highways, was entitled to the notice under section 109 of the Highway Act 5 and 6, William 4, c. 50, which only differs from the section under consideration in using the words "sufficient satisfaction" instead of "sufficient amends". The only question seriously discussed was, whether, under the circumstances, the defendant could be held to have made the rate under the Act. In the present case no such question can arise.

*Answer accordingly.*

## APPELLATE CIVIL.

*Before Sir Charles Sargent, Knight, Chief Justice, and  
 Mr. Justice Nánábhái Haridás.*

April 24.

LAKSHMI, APPLICANT AND JUDGMENT-DEBTOR, v. KRISHNÁBHAT,  
 OPPONENT AND PURCHASER.\*

*Immoveable property—Sale—Inadequacy of price—Material irregularity—Confirmation of sale—Code of Civil Procedure (XIV of 1882), Secs. 305, 311 and 314.*

The sale of immoveable property to the highest bidder for a price which subsequently appears to be too low, is not a material irregularity in publishing or conducting the sale.

A decree-holder or a judgment-debtor cannot apply to set aside a sale on the ground of the price realized being too low.

Under section 314 of the Code of Civil Procedure (XIV of 1882) the Civil Court cannot, upon or without application, refuse to confirm a sale on the ground that the price bid is too low.

THIS was a reference from Ráv Sáheb Vináyak Vithal Tilak, Subordinate Judge (Second Class) of Kumta, under section 617 of the Code of Civil Procedure.

The petitioner (judgment-debtor) sought to set aside the sale of certain lands sold in execution, on the ground of a material irregularity in publishing or conducting it; but the real object in making this application was to prove that the prices bid by the opponent were too low, and that the petitioner did not know

\* Civil Reference, No. 16 of 1884.

the date of the sale so as to enable her to make an application under section 305, and prevent the sale by paying off the judgment-debt.

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The points referred for decision are :—

1. Is the sale of immoveable property to the highest bidder for a price which subsequently appears to be too low, a “material irregularity in publishing or conducting it” ?

2. If not, can a decree-holder or a judgment-debtor apply to set aside a sale on the ground of the price realized being too low ?

3. Under section 314 of the Civil Procedure Code can the Court, upon or without application, refuse to confirm a sale, or, in other words, set aside a sale, on the ground that the price bid is too low ?

*Naráyan Gañesh Chandávarkar* for judgment-debtor.

*Ghanashám Nilkanth Náákarni* for purchaser.

The judgment of the Court was delivered by

SARGENT, C.J.—The first question must be answered in the negative. The decisions of Privy Council in *Girdhari Singh v. Hurdev Náráyan Singh*<sup>(1)</sup> and *R. Olpherts and E. Macnaghten v. Máhábir Pershád Singh*<sup>(2)</sup> are conclusive that mere inadequacy of price does not constitute a material irregularity within section 311. The second question must also be answered in the negative. The Code contains no provision for setting aside a sale in execution proceedings, on the ground of inadequacy of price. As to the third question, it must also be answered in the negative. The Privy Council in *Girdhari Singh v. Hurdev Náráyan Singh*<sup>(1)</sup> say : “The sale having been effected at a low price, would in itself be no ground for refusing to confirm the sale.”

(1) L. R., 3 Ind. Ap., 230.

(2) L. R., 10 Ind. Ap., 25.