

(1953) 10 RAJ CK 0016
In the Rajasthan High Court
Case No : S.C.C. Revision No. 139 of 1953

Moolchand

APPELLANT

Vs

Tikamchand Sharma and another

RESPONDENT

Date of Decision : 13-10-1953

Acts Referred:

Citation : (1953) 10 RAJ CK 0016

Hon'ble Judges : B.N. Nigam, J.C.

Bench : Single Bench

Advocate : Krishna Verma, for the Appellant; J.N. Mehra for Opposite Party No. 1, for the Respondent

Final Decision : Dismissed

Judgement

Nigam, J.C.

1. In execution of S.C.C. decree No. 33 of 1950 certain moveable properties were attached on 10-7-1952. On 25-3-1953, a sale proclamation fixing the sale for 22-4-1953 was issued by the learned Judge, Small Causes. On 21-4-1953 i.e., more than nine months after the attachment and just one day before the sale, Moolchand filed an objection under Order 21, R. 58, Civil P.C. The learned trial Judge directed issue of a notice to the judgment-debtor and the decree-holder for 12-5-1953. The processes were returned unserved. Then on that day, the learned Judge, Small Causes, refused to make any investigation in terms of the proviso to R. 58 and dismissed the objection petition. Against that order, Moolchand, the objector, has come up in revision. I have heard the learned counsel for the applicant.

2. The learned counsel for the applicant has urged that the learned trial Judge was wrong in refusing to exercise his jurisdiction to investigate the objections. It is further urged that the learned trial Judge having once directed the issue of the notice to the decree-holder and the judgment-debtor should not have subsequently rejected the objection on the ground of delay. It is also argued that

the objector or his learned counsel was not given an opportunity to explain the delay.

3. I, however, find that it is not necessary to interfere with the order. The learned counsel for the applicant has not given me any reasonable explanation of the delay in preferring the objection. I am also informed that a suit under O. 21, R. 63, has already been filed by Moolchand. I am, therefore, of opinion that it is unnecessary to interfere with the order of the learned trial Judge.

4. No other point has been pressed before me.

5. I, therefore, see no force in this revision and dismiss it with costs.