Nothing has been placed before us to establish that the Superintending Engineer was legally authorized to enter into such a contract on behalf of the Government; nor do the documents *ex facie* show that the agreement was expressed to be made in the name of the Provincial Government. The letters mentioned the name of the Minister of the Public Works Department and also the Government, in the context of the rates that might be fixed thereafter, but the said documents did not purport to emanate from the Governor. At best they were issued under the directions of the Minister. We find it difficult to stretch the point further, as such a construction will make the provisions of s. 175(3) of the Government of India Act, 1935, nugatory. We cannot, therefore, hold that either the contract was entered into by the person legally authorized by the Government to do so or expressed to be made in the name of the Governor. The agreement is void, as it has not complied with the provisions of s. 175(3) of the Government of India Act, 1935.

In this view, it is not necessary to express our opinion on other interesting questions raised in this case.

In the result, the appeal fails and is dismissed, but in the circumstances, without costs.

*Appeal dismissed.*

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DHIRENDRA NATH GORAI AND SUBAL CHANDRA SHAW AND OTHERS

*v.*

SUDHIR CHANDRA GHOSH AND OTHERS

1964

March 4.

(K. SUBBA RAO, K. C. DAS GUPTA AND RAGHUBAR DAYAL, JJ.)

***Execution—Court sale of property in execution of a decree in respect of a loan—Judgment-debtor not objecting to valuation even after service of notice—Application for setting aside the sale on the ground of***

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*non-compliance of the provisions of s. 35 of the Bengal Money Lenders Act—Maintainability—Sale if, valid—Bengal Money Lenders Act,* 1940 (10 *of* 1940), *s.* 35—*Code of Civil Procedure,* 1908 (*V of* 1908), *O.XXI, rr.* 64, 66 *and* 90.

In execution of a decree passed in a mortgage suit, the appellant annexed in the execution application a Schedule comprising of 11 properties sought to be sold for the satisfaction of the claim. The appellant gave valuation of the said properties. Though the 1st respondent received a notice under O.XXI, r. 66 of the Code of Civil Procedure, he did not file any objection to the valuation. Though he got the sale adjourned a number of times promising to pay the decretal amount, he failed to do so. Finally, two of the said properties were sold. The 1st respondent then filed an application in the executing court for setting aside the said sale under O.XXI, r. 90 of the Code of Civil Procedure, *inter alia, on* the ground that s. 35 of the Bengal Money-Lender's Act was not complied with. The learned subordinate Judge held that there was no fraud in publishing and conducting the sale, that the price of the lots sold was fair and that the sale was not vitiated by reason of infringement of s. 35 of the Act. On appeal, the High Court held that though there had not been any substantial injury to the 1st respondent, the provisions of s. 35 of the Act were mandatory and, therefore, the infringement of the said provisions would invalidate the sale. In this Court it was contended on behalf of the appellants that whether s. 35 of the Act was mandatory or directory, the sale held in violation of the said provision was only illegal but not a nullity and, therefore, it could be set aside only in the manner and for the reasons prescribed in O.XXI, r. 90 of the Code of Civil Procedure, and further that, as the respondents did not attend at the drawing up of the proclamation of sale, the sale could not be set aside at their instance.

*Held:* The non-compliance with the provisions of s. 35 of the Act is a defect or a irregularity in publishing or conducting the sale. A party who received the notice of the proclamation but did not attend at the drawing up of the proclamation or did not object to the said defect cannot maintain an application under O.XXI, r. 90 of the Code of Civil Procedure. Even if he could, the sale cannot be set aside unless by reason of the said defect or irregularity he had sustained substantial injury.

*Ashram Thikadar* v. *Vijay Singh Chopra,* I.L.R. (1944) 1 Cal. 166, distinguished.

*Manindra Chandra* v. *Jagdish Chandra,* (1945) 50 C.W.N. 266 and *Maniruddin Ahmed* v. *Umanprasamma,* (1959) 64 C.W.N. 20, approved.

On a true construction of s. 35 of the Act, it must be held that it was intended only for the benefit of the judgment-debtor and, therefore, he could waive the right conferred on him under s. 35 of the Act.

**Case law reviewed.**

If that be the legal position, O.XXI, r. 90 of the Code of Civil Procedure is immediately attracted. The concurrent finding of the courts is that by reason of the non-observance of the provisions of s. 35 of the Act no substantial injury was caused to the judgment-debtor. Further, though notice was given to the judgment debtor, in one case he did not file objection at all and in the other case, though the judgment-debtor filed objections, he did not attend at the drawing up of the proclamation. The sales are, therefore, not liable to be set aside under the terms of the said provision.

CIVIL APPELLATE JURISDICTION: C.A. Nos. 85 and 86 of 1961.

Appeals from the judgment and decree dated November 23, 1954 of the Calcutta High Court in Appeals from Original Orders Nos. 84 and 83 of 1953.

*B. Sen* and *P. K. Ghosh*, for the appellants (in both the appeals).

*Sukumar Ghosh*, for the respondents Nos. 12 and 13 (in C.A. No. 85 of 1961).

March 4, 1964. The Judgment of the Court was delivered by

*Subba Rao J.*

SUBBA RAO J.—These two appeals raise the question of the validity of the court sale held in contravention of s. 35 of the Bengal Money-Lenders Act, 1940 (Bengal Act X of 1940), hereinafter called the Act.

The facts in both the appeals may be briefly stated. In Civil Appeal No. 85 of 1961, Sudhir Chandra Ghosh, respondent No. 1, executed a first mortgage in favour of one Provash Chandra Mukherjee, since deceased, for a sum of Rs. 12,000/-. Respondent No. 1 executed a second, third and fourth mortgages in favour of the appellant for a total sum of Rs. 7,700/-. He also executed another, mortgage in favour of the 9th respondent. In the year 1948 respondents 2 and 3, representing the first mortgagee's estate, filed Title Suit No. 8 of 1948 in the 7th Additional Court of the Subordinate Judge at Alipore, for enforcing the first mortgage. To that suit the puisne mortgagees were also made parties. On May 24, 1948, a preliminary decree by consent was made in the suit whereunder the judgment-

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debtor was directed to pay a sum of Rs. 15,473-7-9 to the appellant in 7 equal annual instalments. As the judgment-debtor failed to pay the said amount, in due course a final decree was passed in the mortgage suit on or about February 2, 1949. Thereafter, the decree was put in execution on January 31, 1950, and in the said execution application a schedule of properties sought to be sold for the satisfaction of the said claim was annexed. The schedule comprised 11 properties and the appellant gave valuation of the said properties. Though the 1st respondent received a notice under O. XXI, r. 66 of the Code of Civil Procedure, he did not file any objection to the valuation. Though the first respondent got the sale adjourned a number of times promising to pay the decretal amount, he failed to do so. Finally two of the said properties were put up for sale on June 23, 1951, and one of the said properties was purchased by the 12th respondent for a sum of Rs. 11,800/- and the other, by the 13th respondent for a sum of Rs. 10,100/-. On July 21, 1951, the 1st respondent filed an application in the executing court for setting aside the said sale under O. XXI, r. 90 of the Code of Civil Procedure, *inter alia*, on the ground that s. 35 of the Act was not complied with. The learned Subordinate Judge held that there was no fraud in publishing and conducting the sale, that the price of the lots sold was fair and that the sale was not vitiated by reason of infringement of s. 35 of the Act. On appeal a Division Bench of the High Court held that though there had not been any substantial injury to the 1st respondent, the provisions of s. 35 of the Act were mandatory and, therefore, the infringement of the said provisions would invalidate the sale. In that view, it set aside the sale and directed the appellant to refund the money with interest.

Civil Appeal No. 86 of 1961 also arises out of the same execution proceedings. Under the said compromise preliminary decree the judgment-debtor agreed to pay the decretal amount of Rs. 25,687/- to the executors of the estate of the first mortgagee, respondents 2 and 3. As the amount was not paid, the said respondents filed an application in the 7th Court of the Additional Subordinate Judge, Alipore, for the execution of the said decree. In the

execution petition 8 properties were described and their valuations were given. The judgment-debtor filed objections to the valuations given by the decree-holders, but on the date fixed for settling the valuations of the said properties neither the judgment-debtor nor his advocate appeared in court. The learned Subordinate Judge, by his order dated February 11, 1950, directed that both the valuations of the decree-holders and the judgment-debtor be noted in the sale proclamation. Thereafter the sale proclamation was duly issued and the date of the sale was fixed for May 11, 1950. The judgment-debtor took as many as 15 adjournments of the sale promising to pay the decretal amount, but did not do so. Finally the sale of the properties was fixed for June 23, 1951 and on that date two lots of the property were sold in execution and the appellants purchased lot No. 1 at a price of Rs. 14,000/- and respondent No. 9 purchased Lot No. 2 at a price of Rs. 19,600/-. On July 21, 1951, the 1st respondent filed an application before the learned Subordinate Judge for setting aside the sale under O. XXI, r. 90 of the Code of Civil Procedure, on grounds similar to those raised in the other application, the subject-matter of Civil Appeal No. 85 of 1961. The said application was heard by the learned Subordinate Judge along with the said other application. For the same reasons, he dismissed the application. On appeal, the Division Bench of the High Court heard the appeal along with the connected appeal and set aside the sale. The present appeals are filed by certificate against the common judgment of the High Court in both the matters.

Mr. Sen, learned counsel for the appellants in both the appeals, contends that whether s. 35 of the Act is mandatory or directory the sale held in violation of the said provision is only illegal but not a nullity and, therefore, it can be set aside only in the manner and for the reasons prescribed in O. XXI, r. 90 of the Code of Civil Procedure, and further that, as the respondents did not attend at the drawing up of the proclamation of sale, the sale cannot be set aside at their instance.

To appreciate the argument it is necessary and convenient to read at the outset the relevant provisions of the Act and the Code of Civil Procedure.

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*Section 35 of the Act.*

"Notwithstanding anything contained in any other law for the time being in force, the proclamation of the intended sale of property in execution of a decree passed in respect of a loan shall specify only so much of the property of the judgment-debtor as the Court considers to be saleable at a price sufficient to satisfy the decree, and the property so specified shall not be sold at a price which is less than the price specified in such proclamation :

Provided that, if the highest amount bid for the property so specified is less than the price so specified, the Court may sell such property for such amount, if the decree-holder consents in writing to forego so much of the amount decreed as is equal to the difference between the highest amount bid and the price so specified."

CODE OF CIVIL PROCEDURE

*Order XXI, r.* 64

Any Court executing a decree may order that any property attached by it and liable to sale, or such portion thereof as may seem necessary to satisfy the decree, shall be sold, and that the proceeds of such sale, or a sufficient portion thereof, shall be paid to the party entitled under the decree to receive the same.

*Order XXI, r.* 66.

(1) Where any property is ordered to be sold by public auction in execution of a decree, the Court shall cause a proclamation of the intended sale to be made in the language of such Court.

(2) Such proclamation shall be drawn up after notice to the decree-holder and the judgment-

debtor and shall state the time and place of sale, and specify as fairly and accurately as possible—

(a) the property to be sold;

* * * * *

*Order XXI, r. 90.*

(1) Where any immovable property has been sold in execution of a decree, the decree-holder, or any person entitled to share in a rateable distribution of assets, or whose interests are affected by the sale, may apply to the Court to set aside the sale on the ground of a material irregularity or fraud in publishing or conducting it or on the ground of failure to issue notice to him as required by rule 22 of this Order:

Provided (i) that no sale shall be set aside on the ground of such irregularity, fraud or failure unless, upon the facts proved, the Court is satisfied that the applicant has sustained substantial injury by reason of such irregularity, fraud or failure.

(ii) that no sale shall be set aside on the ground of any defect in the proclamation of sale at the instance of any person who after notice did not attend at the drawing up of the proclamation or of any person in whose presence the proclamation was drawn up, unless objection was made by him at the time in respect of the defect relied upon.

Under O. XXI, r. 64 of the Code of Civil Procedure, the executing court may order that any property attached by it and liable to sale or such portion thereof as may seem necessary to satisfy the decree shall be sold. Under r. 66 of the said Order of the Code when a property is ordered to be sold in public auction in execution of a decree the court shall cause a proclamation of the intended sale to be made and such proclamation shall specify as fairly and accurately as possible, among others, the property to

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be sold and such proclamation shall be drawn up after notice to the decree-holder and the judgment-debtor: under sub-r. (4) thereof, the court may summon and examine any person or require him to produce any document in his possession or power relating thereto. Under the said provisions the court has power to direct the sale of the entire property attached or a part thereof sufficient to satisfy the decree and it shall also specify the said property directed to be sold in the proclamation fixed after giving notice to both the decree-holder and the judgment-debtor. Under s. 35 of the Act a duty is cast upon the court in settling the proclamation of the intended sale of property in execution of a decree passed in respect of a loan to which the Act applies to specify only so much of the property of the judgment-debtor as the court considers to be saleable at a price sufficient to satisfy the decree and not to sell the property so specified at a price which is less than the price so specified in such proclamation. This provision is in effect a statutory addition to O. XXI, r. 66 of the Code of Civil Procedure. Indeed, this provision could have been added as another clause to the said rule. This statutory provision pertains to the field of proclamation. The rule says so in terms. The said two conditions are also steps to be taken by the court in the matter of publishing or conducting the sale. If a sale is held without complying with the said conditions, what is the remedy open to a party affected thereby to get the sale set aside? Order XXI, r. 90 of the Code in terms provides for the remedy. It says that a person whose interests are affected by the sale may apply to the court to set aside the sale on the ground of a material irregularity or fraud in publishing or conducting it or on the ground of failure to issue notice to him as required by r. 22 of the Order. As the non-compliance with the said conditions is a material irregularity in publishing or conducting the sale the court under the first proviso to O. XXI, r. 90 of the Code cannot set aside the sale unless it is satisfied that the applicant had sustained substantial injury by reason of such irregularity. That apart, under the second proviso to the said rule, no sale shall be set aside on the ground of any defect in the proclamation of sale at the instance of any person, who after notice did not attend at the drawing up

of the proclamation or of any person in whose presence the proclamation was drawn up unless objection was made by him at the time of drawing up of the proclamation in respect of the defect relied upon. Shortly stated, the non-compliance with the provisions of s. 35 of the Act is a defect or a irregularity in publishing or conducting the sale. A party who received the notice of the proclamation but did not attend at the drawing up of the proclamation or did not object to the said defect cannot maintain an application under O. XXI. r. 90 of the Code of Civil Procedure. Even if he could, the sale cannot be set aside unless by reason of the said defect or irregularity he had sustained substantial injury.

On this question a divergence of views is reflected in the decisions cited at the Bar. Mukherjea and Pal, JJ., in *Asharam Thikadar* v. *Bijay Singh Chopra*(1) set aside the order of the executing court and sent the case back to that court, as the said court inserted in the proclamation the valuation of the property given by the judgment-debtor as well as that given by the decree-holder and did not, as it should do under s. 35 of the Act, determine the price of the property which was to be put up for sale on proper evidence. This decision has no relevance to the question raised before us, as the appeal before the High Court was against the order made by the executing court dismissing the application filed by the judgment-debtor requesting the court to demarcate the property to be sold pursuant to the provisions of s. 35 of the Act. The question whether a sale held in non-compliance with the said provisions could be set aside *de hors* the provisions of O. XXI, r. 90 of the Code of Civil Procedure did not arise for consideration therein. The question now posed before us directly arose for decision before a Division Bench of the Calcutta High Court, consisting of Akram and Chakravartti, JJ., in *Manindra Chandra* v. *Jagadish Chandra*(2). Chakaravartti, J., met the objection raised by the judgment-debtor who sought to set aside the sale on the ground of non-compliance with the provisions of s. 35 of the Act, thus :

(1) I.L.R. [1944] 1 Cal. 166. (2) (1945) 50 C.W.N. 266, 270.

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"It (s. 35 of the Act) is a provision relating to the contents of the sale proclamation and its effect, to my mind, is to amend or supplement Or. 21, r. 66(2)(a) which directs the Court to specify in the sale proclamation "the property to be sold". Any objection regarding non-compliance with sec. 35 in specifying the property to be sold is, in my view, a defect in the sale proclamation within the meaning of the second proviso to Or. 21, r. 90, C.P.C. It follows that an objection that the sale proclamation did not conform to sec. 35 of the Bengal Money-Lenders Act cannot avail a judgment-debtor in an application under Or. 21, r. 90, if he was present at the drawing up of the sale proclamation and did not raise any such objection at the time, nor can it avail a judgment-debtor who, after receiving notice did not attend at the drawing up of the sale proclamation at all."

We agree with this reasoning. Another Division Bench of the Calcutta High Court, consisting of Guha and Banerjee, JJ., in *Maniruddin Ahmed* v. *Umaprasanna*(1), considered the entire case law on the subject, including the decision now under appeal, and differed from the view expressed by S. R. Das Gupta and Mallick, JJ., in the decision now under appeal and agreed with the view expressed by Akram and Chakravartii, JJ., in *Manidra Chandra* v. *Jagdish Chandra*(2). The said decisions are in accord with the view we have expressed earlier. The contrary view is sustained by the High Court in the present case on the principle that the sale held in contravention of the provisions of s. 35 of the Act was a nullity and, therefore, no question of setting aside the sale within the meaning of O. XXI, r. 90 of the Code of Civil Procedure would arise. This raises the question whether such a sale is a nullity. If a provision of a statute is only directory, an act done in contravention of the provision is manifestly not a nullity. Section 35 of the Act is couched in a mandatory form and it casts in terms a duty on the court to comply with its

(1) (1959) 64 C.W.N. 20. (2) (1945) 50 C.W.N. 266, 270.

provisions before a sale is held. *Prima facie* the provision is mandatory; at any rate, we shall assume it to be so for the purpose of these appeals.

Even then, the question arises whether an act done in breach of the mandatory provision is *per force* a nullity. In *Ashutosh Sikdar* v. *Behari Lal Kirtania*(1), Mookerjee, J., after referring to Macnamara on "Nullity and Irregularities", observed :

> ".....no hard and fast line can be drawn between a nullity and an irregularity; but this much is clear, that an irregularity is a deviation from a rule of law which does not take away the foundation or authority for the proceeding, or apply to its whole operation, whereas a nullity is a proceeding that is taken without any foundation for it, or is so essentially defective as to be of no avail or effect whatever, or is void and incapable of being validated."

Whether a provision falls under one category or the other is not easy of discernment, but in the ultimate analysis it depends upon the nature, scope and object of a particular provision. A workable test has been laid down by Justice Coleridge in *Holmes* v. *Russell*(2), which reads:

> "It is difficult sometimes to distinguish between an irregularity and a nullity; but the safest rule to determine what is an irregularity and what is a nullity is to see whether the party can waive the objection; if he can waive it, it amounts to an irregularity; if he cannot, it is a nullity."

A waiver is an intentional relinquishment of a known right. but obviously an objection to jurisdiction cannot be waived, for consent cannot give a court jurisdiction where there is none. Even if there is inherent jurisdiction, certain provisions cannot be waived. Maxwell in his book "On the

(1) (1908) I.L.R. 35 Cal. 61, 72. (2) [1841] 9 Dowl. 487.

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Interpretation of Statutes", 11th Edn., at p. 375, describes the rule thus :

> "Another maxim which sanctions the non-observance of a statutory provision is that *cuilibet licet renuntiare juri pro se introducto*. Everyone has a right to waive and to agree to waive the advantage of a law or rule made solely for the benefit and protection of the individual in his private capacity, which may be dispensed with without infringing any public right or public policy."

The same rule is restated in "Craies on Statute Law", 6th Edn., at p. 269, thus :

> "As a general rule, the conditions imposed by statutes which authorise legal proceedings are treated as being indispensable to giving the court jurisdiction. But if it appears that the statutory conditions were inserted by the legislature simply for the security or benefit of the parties to the action themselves, and that no public interests are involved, such conditions will not be considered as indispensable, and either party may waive them without affecting the jurisdiction of the court."

The Judicial Committee in *AL. AR. Vellayan Chettiar* v. *Government of Madras*(1) pointed out that there was no inconsistency between the propositions that the provisions of s. 80 of the Code of Civil Procedure were mandatory and must be enforced by the court and that they might be waived by the authority for whose benefit they were provided. In that case the Judicial Committee held that s. 80 of the Code of Civil Procedure was explicit and mandatory; but still it held that it could be waived by the authority for whose benefit that was provided. This aspect of the law in the context of s. 35 of the Act was considered by a Division Bench of the Calcutta High Court in *Gaya Prosad* v. *Seth*

(1) [1947] L.R. 74 I.A. 223, 228.

*Dhanrupwal Bhandari*(1). Dealing with this argument, P. N. Mookerjee, J., speaking for the court, observed :

> "It is true that section 35 of the Bengal Money-Lenders Act casts a duty upon the court but such duty is solely for the benefit—the private benefit—of the judgment-debtor. It is, therefore, open to him to waive this benefit, or, in other words, to waive his objection of non-observance of that statutory provision by the court.....".

Guha and Banerjee, JJ., expressed much to the same effect in *Maniruddin Ahmed* v. *Umaprasanna*(2) thus, at p. 30:

> "The Bengal Money-Lenders Act, 1940 enacted for the purpose of making better provision for the control of money-lenders and for the regulation and control of money-lending, has certainly a public policy behind it. But some of its provisions, and section 35 one of them, are intended for the benefit of the individual judgment debtors and have no public policy behind them. Such provisions may be waived by the person for whose benefit the same were enacted."

A Division Bench of the Patna High Court in *Sheo Dayal Narain* v. *Musammat Moti Kuer*(3), speaking through Meredith, J., in the context of the provisions of s. 13 of the Bihar Money-Lenders (Regulation of Transactions) Act, 1939, which are *pari materia* with the provisions of s. 35 of the Bengal Money-Lenders Act, 1940, rejected the contention that a sale held in contravention thereof was a nullity in the following words :

> "Illegal the sale may have been, in the limited sense that it was held in a manner at variance with a mandatory statutory provision. That provision, however, has no reference at all to the jurisdiction of the Court. It affords no foundation for

(1) (1953) 58 C.W.N. 503, 508.
(2) 64 C.W.N. 20.
(3) (1942) I.L.R. 21 Pat. 281, 286.

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the contention that the sale was one which the Court concerned had no power at all to hold."

Where the court acts without inherent jurisdiction, a party affected cannot by waiver confer jurisdiction on it, which it has not. Where such jurisdiction is not wanting, a directory provision can obviously be waived. But a mandatory provision can only be waived if it is not conceived in the public interests, but in the interests of the party that waives it. In the present case the executing court had inherent jurisdiction to sell the property. We have assumed that s. 35 of the Act is a mandatory provision. If so, the question is whether the said provision is conceived in the interests of the public or in the interests of the person affected by the non-observance of the provision. It is true that many provisions of the Act were conceived in the interests of the public, but the same cannot be said of s. 35 of the Act, which is really intended to protect the interests of a judgment-debtor and to see that a larger extent of his property than is necessary to discharge the debt is not sold. Many situations may be visualized when the judgment-debtor does not seek to take advantage of the benefit conferred on him under s. 35 of the Act; for instance, if the part of the property carved out by the court for sale is separated from the rest of his property, the value of the remaining property may be injuriously affected by the said carving out, in which case the judgment-debtor may prefer to have his entire property sold so that he may realize the real value of the property and pay part of the sale price towards the decretal amount. He cannot obviously be compelled to submit to the sale of a part of the property to his disadvantage. A provision intended for his benefit cannot be construed in such a way as to work to his detriment. But it is said that the proviso to s. 35 of the Act indicates a contrary intention. Under that proviso, "if the highest amount bid for the property so specified is less than the price so specified, the Court may sell such property for such amount, if the decree-holder consents in writing to forego so much of the amount decreed as is equal to the difference between the highest bid and the price so specified". This is only an option given to the decree-holder : he may exercise this option, if he does

not like to go through the entire sale proceedings overagain. In one contingency this proviso also works for the benefit of the judgment-debtor, for he will be relieved of part of his indebtedness. But anyhow this does not show that the main provision is not intended for the benefit of the judgment-debtor. We are, therefore, satisfied, on a true construction of s. 35 of the Act, that it is intended only for the benefit of the judgment-debtor and, therefore, he can waive the right conferred on him under s. 35 of the Act.

If that be the legal position, O. XXI, r. 90 of the Code of Civil Procedure is immediately attracted. The concurrent finding of the courts is that by reason of the non-observance of the provisions of s. 35 of the Act no substantial injury was caused to the judgment-debtor. Further, though notice was given to the judgment-debtor, in one case he did not file objections at all and in the other case, though the judgment-debtor filed objections, he did not attend at the drawing up of the proclamation. The sales are, therefore, not liable to be set aside under the terms of the said provision.

In the result the orders of the High Court are set aside and those of the Additional Subordinate Judge are restored. The appellants will get their costs throughout from the 1st respondent. There will be one set of hearing fee.

*Appeals allowed.*

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N. VAJRAPANI NAIDU AND ANOTHER

1964

March 4.

THE NEW THEATRE CARNATIC TALKIES LTD., COIMBATORE

(P. B. GAJENDRAGADKAR, C.J., K. N. WANCHOO, J. C. SHAH, N. RAJAGOPALA AYYANGAR AND S. M. SIKRI JJ.)

*Madras City Tenants' Protection Act*, 1922 (*Act* 3 *of* 1922), *ss.* 9, 12—*Lease of land for purpose of erecting buildings—If lease not renewed after twenty years lessor entitled to vacant possession of land after demolishing building—Act permitting tenant to either get*