

(1918) 04 PAT CK 0016

Patna High Court

Case No: None

Srish Chandra Ghose
and Another

APPELLANT

Vs

Sadhu Charan Routra

RESPONDENT

Date of Decision: April 4, 1918

Citation: AIR 1918 Patna 352(1) : 46 Ind. Cas. 84

Hon'ble Judges: Roe, J; Chapman, J

Bench: Division Bench

Judgement

1. In this case the learned District Judge in appeal has set aside a sale in execution. It was not sufficient for him to find that there was no publication of the sale upon the spot. It was necessary for him to go into the question whether the applicant had sustained substantial injury by reason of the irregularity. We are of opinion that he was barred under the express terms of the proviso to Rule 90 of Order XXI from setting aside the sale without going into the question of substantial injury. The judgment and decree in appeal are, therefore, set aside. The appeal is remanded for fresh disposal after hearing the parties in accordance with the above remarks.