

In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 245 of 2016 (O&M)

Date of Decision: 15.01.2016

Pavitar Jit Kaur

... Petitioner(s)

Versus

Baldev Singh (deceased) and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Shekher Dhawan.

1. Whether reporters of local newspapers may be allowed to see judgment? Yes
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest? Yes

Present: Mr. Vinod K. Kataria, Advocate
for the petitioner.

Shekher Dhawan, J.

Present petition under Article 227 of the Constitution of India is challenge to the order dated 5.1.2016 passed by learned Additional Civil Judge (Senior Division), Faridkot.

Relevant facts, for the purpose of decision of the present petition, are that land left by Ranjit Singh (deceased) was attached and put to auction and to pay the said amount to the decree holder. Petitioner participated in the auction held on 21.12.2015. The petitioner was the highest bidder and deposited a sum of ₹ 9,72,000/- i.e. 1/4th amount which was to be deposited within 15 days. However, petitioner failed to deposit the said amount within stipulated period. Rather petitioner being auction purchaser moved an application for extension of time and the Court below declined the said request on the ground that as per provisions of Order 21 Rule 85 CPC, such permission could

not be granted.

Learned counsel for the petitioner submitted that circumstances were beyond the control of petitioner as marriage of her daughter was fixed for 24.1.2016 and apprehending financial difficulty, moved an application on 2.1.2016 for seeking extension of time of 30 days and the request was orally accepted by the decree holder even and as such the order under challenge is liable to be set aside.

Having considered the submissions made by learned counsel for the petitioner, this Court is of the considered view that the facts being not disputed to the extent that the petitioner is auction purchaser and rights of such auction purchaser are to be decided as per provisions of Order 21 Rule 85 CPC, which reads as under:-

"85. Time for payment in full of purchase-money.

The full amount of purchase-money payable shall be paid by the purchaser into Court before the Court closes on the fifteenth day from the sale of the property.

Provided, that, in calculating the amount to be so paid into Court, the purchaser shall have the advantage of any set-off to which he may be entitled under rule 72."

The above Rule makes it ample clear that the amount is required to be paid within stipulated period and in case of default in payment, the property is to be resold. This stringent provision of making payment within the stipulated period thereby creates rights in favour of third party as well, as in the event of failure to make payment property is to be resold. Facts are not disputed to the extent that balance amount of 75% has not been deposited within stipulated period.

Learned counsel for the petitioner also submitted that learned Court below placed reliance upon judgment of this Court in ***Satish Chopra and Another v. Suraj Parkash and Others*** **2007(4) RCR (Civil) 324**. But in the said judgment, even this Court allowed the extension of time to the auction purchaser.

Having considered the view taken by the Co-ordinate Bench of this Court in ***Satish Chopra's case (supra)***, this Court is of the considered view that even in above referred case, this Court had taken a specific note that as per provisions of Section 148 CPC and Order 21 Rule 85 CPC governing deposit of amount in auction sale, the time cannot be extended. The Court below has rightly decided the controversy in those terms. However, in ***Satish Chopra's case (supra)***, extension of time was allowed for other reasons as a long time had passed after the auction sale and petitioner was allowed to deposit the auction amount within 15 days but that was the decision on the basis of specific facts of the said case, whereas the facts of the present case are entirely distinguished.

There is no illegality in the impugned order dated 5.1.2016 and the present petition is without any merit and the same stands dismissed, in limine.

(Shekher Dhawan)
Judge

January 15, 2016

"DK"