

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CR No.3467 of 2013 (O&M)

Date of decision:26.08.2016

Ujagar Singh

... Petitioner

Vs.

Parmeshwaran Rani and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Namit Gautam, Advocate
for the petitioner.

Mr. Jaswinder Singh, Advocate, for
Mr. D.S.Khurana, Advocate
for respondent No.8.

None for respondents No.1 to 7.

AMIT RAWAL J.

Petitioner-judgment debtor is aggrieved of the impugned order dated 15.03.2013, whereby, in pursuance to the Award dated 11.05.2010 passed in MACT Case No.64 of 2008, the property has been put to auction and the objections for setting aside the auction and sale, have been dismissed.

Mr. Namit Gautam, learned counsel appearing on behalf of the petitioner-judgment debtor submits that auction purchaser has not complied with the provisions of Order 21 Rule 85 of Code of Civil Procedure (hereinafter referred to as "CPC") inasmuch as that auction of the property after the attachment order was held on 14.11.2012. Though the auction purchaser deposited 25% of the sale consideration but the remaining amount was required to be deposited on 15th day from the date of the sale of the property and 15th day expired on 28.11.2012. He deposited the balance sale

consideration beyond 15th day which is evident from the report of collector dated 16.02.2013 and thus, urges this Court for setting aside the auction in view of the provisions of Order 21 Rule 86/87 CPC.

Per contra, Mr. Jaswinder Singh Advocate for Mr. P.S.Khurana, learned counsel appearing on behalf of respondent No.8/auction purchaser submits that the onus is on the petitioner to prove that there was non-compliance of the aforementioned provisions of law and thus, urges this Court for affirming the findings rendered in the impugned order.

I have heard learned counsel for the parties and appraised the paper book.

Notice of motion in this case was issued way back on 02.12.2013 and the operation of the impugned order had remain stayed, in essence, the consequential effect of the auction, i.e., confirmation of the sale and handing over the possession of the property stood stayed. Thereafter, the matter kept having adjourned from time to time. On 25.04.2016, after hearing the arguments at some length, this Court had called upon the parties to place on record the receipt of deposit of balance sale consideration before the Collector in order to ascertain the compliance of the provisions of Order 21 Rule 85 CPC. Mr. Namit Gautam, again raised the argument aforementioned but stated that he is not in possession of the receipt and certified copy of the same has been applied and has drawn the attention of this Court to the impugned order. I am of the view that once the plaintiff, *prima facie*, has not been able to make out the case before the trial Court, much less, before this Court for non-compliance of the provisions of Order 21 Rule 85 CPC, there is no force in the submissions of Mr. Gautam to get

the auction and sale deed set aside for want of compliance of the statutory provisions of law.

For the foregoing reasons, the order under challenge does not call for interference. However, liberty is granted to the petitioner to seek recalling of the order, in case, the payment of balance amount of sale consideration had been deposited after 15th day only.

Accordingly, the revision petition stands dismissed.

(AMIT RAWAL)
JUDGE

August 26, 2016
savita

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No