

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

CR No. 3821 of 2012
Date of decision : April 4, 2016

Parmod Kumar

..... Petitioner

Versus

Raskin Singh

..... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Avnish Mittal, Advocate
for the petitioner.

Mr. Saurabh Singla, Advocate
for the respondent.

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

Amit Rawal, J (oral).

The petitioner-decree holder is aggrieved of allowing of the objections without there being adjudication of application seeking condonation of delay.

Learned counsel for the petitioner submits that the auction was conducted on 28.11.2007. The property put to auction has been purchased by the petitioner-decree holder, whereas the objections under Order 21 Rule 89 CPC have been filed beyond 60 days which was barred by law of limitation accordingly application

seeking condonation of delay was accompanied, however, the trial court without deciding such application accepted the objections, thus, the order is not sustainable in the eyes of law.

Learned counsel appearing on behalf of the respondent submits that the judgment and decree dated 21.5.2004 for recovery of money could not be executed against the interest of the respondent as the original sale deed is dated 8.4.2004 whereas auction was conducted on 28.11.2007, and thus urges that there is no illegality and perversity in the impugned order.

I have heard learned counsel for the parties and appraised the paper book and of the view that as per provisions of Article 127 of the Limitation Act the party seeking setting aside of the auction can file objections under Order 21 Rule 89 CPC within the period of sixty days. The objections were filed in 2008 whereas property was auctioned on 28.11.2007. On perusal of the impugned order, it reveals that there is no adjudication on the application for condonation of delay, therefore, I am of the view that petitioner-decree holder is prevented from seeking dismissal of the objections on the point of limitation.

Keeping in view the facts and circumstances of the case, the impugned order accepting the objections at the instance of the legal representatives of the J.D being minor is not sustainable in the eyes of law. The impugned order is set aside. The matter is remitted back to the trial court to adjudicate first the application seeking condonation of delay before adverting to the merits and demerits of the objections.

The revision petition stands allowed.

Parties through their counsel are directed to appear
before the trial court on 2.5.2016.

(AMIT RAWAL)
JUDGE

April 4, 2016
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