

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

C.R. No. 3536 of 2017

Date of decision : 30.05.2017

Munsha Singh

....Petitioner

V/s

State Bank of India & anr.

....Respondents

BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Jai Bhagwan, Advocate for the petitioner.

RAJAN GUPTA J.

Present revision petition is directed against the order whereby sale of land measuring 34 kanals 10 marlas has been directed by court below in execution of a money decree passed against the petitioner-Judgment Debtor. Primarily order has been challenged on the ground that sale of lesser area of land could have satisfied the decree. Executing court, thus gravely erred in directing auction of the entire land. Learned counsel has placed reliance on judgment reported as *Balakrishnan vs. Malaiyandi Konar* 2006 AIR (SC) 1458 in support of his contention.

I have heard learned counsel for the petitioner and given careful thought to the facts of the case.

It appears that on a suit filed by respondent-bank, a decree for recovery of amount of ₹8,99,992/- alongwith interest @13.25% was passed in favour of the bank. This order attained finality. Bank thereafter filed execution application before the Civil Judge (Senior Division), Fazilka. It claimed recovery of amount of ₹10,77,406/-. The executing court directed

public auction of land measuring 34 kanals 10 marlas belonging to the

petitioner. Plea of the petitioner that auction of part of the land could have satisfied the decree is without any substance. It would be virtually impossible for the trial court to identify a particular area of the land and put the same to auction. Only a clearly demarcated piece of land is likely to fetch bidders. Needless to observe that money decree is of no value unless it is executed. In instant case if the land fetches higher value, after satisfying the decree, balance amount would naturally go to the Judgement Debtor. Judgment in *Balakrishnan's* case (supra) is not applicable to the facts of this case as the land which has been put to auction (34 kanals 10 marlas) was attached by the court below earlier. It would not be possible for the executing court to segregate a particular portion thereof. Besides, it is not known as to what amount the land in question is likely to fetch during auction. In my considered view no fault can be found by the procedure adopted by the executing court. Revision petition is without any merit and is hereby dismissed.

May 30, 2017

Ajay

(RAJAN GUPTA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No