

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

**C.R. No.5849 of 2013 (O&M)
Date of Decision.19.11.2018**

Sudesh and others

...Petitioners

Vs

State Bank of Patiala and others

...Respondents

2. C.R. No.5850 of 2013 (O&M)

Mahender Singh

...Petitioner

Vs

State Bank of Patiala and others

...Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Amit Jain, Advocate
for the petitioners.

Mr. Akshay Jain, Advocate
for respondent No.1.

Mr. R.S. Sihota, Senior Advocate with
Mr. B.R. Rana, Advocate
for respondent No.2.

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AMIT RAWAL J. (ORAL)

This order of mine shall dispose of two revision petitions bearing Nos.5849 and 5850 of 2013 at the instance of the petitioners-JDs in a suit for recovery filed by the Bank.

The aforementioned suit was decreed against the judgment debtors on the basis of the undertaking given by the defendants to clear the entire outstanding amount. However, the Bank filed the execution as the aforementioned amount was not deposited. During the pendency of the execution petition, JDs deposited ₹4,50,000/- but before the balance

amount could be deposited, the Executing Court on 04.02.2014 entertained the application as the disputed property was already put to auction and confirmed the sale by ordering refund of ₹4,50,000/- to the petitioners as JDs. The said auction was held in 2010. Thereafter, the petitioners have deposited another amount of ₹2,25,000/- on 07.02.014. This fact has been noticed by this Court vide order dated 11.02.2014.

The point to be determined in this revision petition is whether the third party rights which have been created during the pendency of the execution application on account of default of the petitioners in not making the payment, auction proceedings resulting into issue of sale certificate can be permitted to go on or otherwise.

Mr. Jain learned counsel appearing on behalf of respondent No.1-Bank submitted that the entire outstanding amount along with the interest as per the decree aforementioned has been received.

No doubt, third party rights have been created on account of the fault of the petitioner and in the auction 8 acres of agricultural land have been sold for amount of ₹14 lakhs whereas according to the counsel for the petitioners, the market rate was ₹72 lakhs. Be that as it may, I am of the view that the auction purchaser is required to be compensated. The impugned order dated 20.10.2010 as well as order dated 04.02.2014 are set aside. The sale certificate issued in pursuance to impugned order dated 04.02.2014 is also set aside.

The revision petitions are allowed. The petitioners-judgment debtors are directed to pay interest @10% per annum on the amount deposited by the auction purchaser from the date of deposit till the date of payment. The entire exercise shall be done by the trial Court as both the

parties are directed to submit their calculation vis-à-vis interest.

(AMIT RAWAL)
JUDGE

November 19, 2018
Pankaj*

Whether Reasoned/Speaking	Yes
Whether Reportable	No