

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RA-CR-116-CII-2018 in
CR 289-2016 (O&M)
Date of decision: 21.09.2018

Prem Kumar

.....Petitioner

versus

Rekha Sharma and others

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.K.B.Raheja, Advocate for the applicant-petitioner
Mr.Binderjit Singh, Advocate
for the non-applicant-respondent no.1

1. *Whether Reporters of Local Newspapers 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?*

Kuldip Singh, J. (Oral)

Heard.

This order will dispose of application filed by the petitioner-applicant Prem Kumar for review of judgment dated 24.1.2018 passed by this Court in CR No.289 of 2016.

Reply to the application has been filed.

Learned counsel for the applicant-petitioner has argued that in the impugned order, malba was ordered to be auctioned by the Executing Court and proceeds thereof be deposited in the Court. Further, Executing Court was directed to examine claim of the applicant-petitioner that part of the malba has been sold by Local Commissioner and bills produced regarding removal of cost of malba are also to be seen and adjusted in the amount of Rs.1,45,000/- already deposited by the petitioner before the Executing Court.

Learned counsel for the applicant has argued that malba was already purchased by the petitioner for Rs.1,45,000/-. Therefore, same

cannot be re-auctioned. In this regard, reference has been made to order dated 7.1.2003 passed by learned Civil Judge (Senior Division), Mansa, wherein respondent no.3 has offered to purchase the malba for Rs.1,45,000/-, against Rs.1,42,000/-, offered by Satpal, Proprietor of M/s Bansal Sanitary Store, Mansa. The offer of the respondent (present applicant) was accepted. However, Rs.1,45,000/- were not deposited within time and were deposited within the extended time. It also comes out that the said malba was in the form of Cinema and Ice Factory. After the assets of the firm were liquidated, malba was liable to be removed. However, it comes out that the present applicant did not remove the malba and it was ultimately removed by the Local Commissioner.

Now, the question would arise as to whether malba can be re-sold or not?

Admittedly, in this case, costs for the removal of malba are to be recovered. Since, the applicant did not remove the malba, therefore, costs are to be recovered from him. Therefore, for this limited purpose, the malba can be sold for the recovery of cost of removal, which includes amount paid to the Local Commissioner.

It being so, there is no illegality or infirmity in the impugned order.

Resultantly, the present review petition stands dismissed.

However, the applicant can always claim balance amount, if any.

21.09.2018
gk

(Kuldip Singh)
Judge

Whether speaking/ reasoned:
Whether Reportable:

Yes
No