

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED : 26.06.2019

WEB COPY

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU**C.R.P (MD) .No.883 of 2019 (NPD)****and****C.M.P. (MD) .No.5148 of 2019**

N.Hidayathulla

... Petitioner/
Respondent/Defendant

Vs.

M.Neelakumar

... Respondent /
Petitioner/Plaintiff

PRAYER:- Civil revision Petitions filed under Section 115 of the C.P.C., praying to set aside the sale proclamation dated 13.05.2019 made in E.P.No.64 of 2018 in O.S.No.20 of 2015 on the file of the III-Additional District Judge (FAC), Tiruchirapalli.

For petitioner : Mr.R.Vijayakumar

For respondent : Mr.K.K.Senthil

ORDER

This civil revision petition has been filed by the petitioner/defendant against the sale proclamation dated 13.05.2019 made in E.P.No.64 of 2018 in O.S.No.20 of 2015.

2. When the matter came up for hearing on 20.06.2019, the learned counsel for the petitioner submitted that only lesser value has been fixed as upset price. This Court suggested the petitioner to verify as to the payment of the balance amount even on installment basis. The learned counsel for the respondent also agreed for the same. But, today, the learned counsel appearing for the petitioner submitted that the petitioner is not able to make any payment even on installment basis.

3. The main contention of the learned counsel for the petitioner is that as per Order 21 Rule 66 of C.P.C., the estimate value of the property given by both the parties should be included in the sale proclamation, but the Court below has failed to include the estimate given by the petitioner in column No.12 of the sale



4. The learned counsel appearing for the respondent has not disputed the same.

5. The 2nd proviso to Order 21 Rule 66 of C.P.C. reads as follows:

"66. Proclamation of sales by public auction. _

(1).... (2).... provided further that nothing in this rule shall be construed as requiring the Court to enter in the proclamation of sale its own estimate of the value of the property, but the proclamation shall include the estimate, if any, given by either or both of the parties."

6. The above proviso makes it clear that the estimate, if any, given by both the parties should be included in the sale proclamation. But, in this case, though the estimate given by the respondent has been included in the sale proclamation, the estimate given by the petitioner, which has been received by the Court below as early as on 14.03.2019, has not been included in column No.12 of the sale proclamation. Hence, the Court below is directed to include the estimate given by the petitioner in column No.12 of the sale proclamation and then, conduct auction in accordance with law.

7. With the above direction, this Civil Revision Petition stands closed. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar(CO)

// True Copy //

Sub Assistant Registrar(CS)

gcg

To

1. The III-Additional District Judge (FAC), Tiruchirapalli.

+1CC TO MR.K.K.SENTHIL, Advocate Sr. No.71857

+1CC TO MR.R.VIJAYAKUMAR, Advocate Sr. No. 71985

C.R.P(MD).No.883 of 2019 (NPD)
26.06.2019

NS (CO)

TR (01.07.2019) 3P 4C