

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

Civil Revision No.214 of 2018 (O&M)

Date of Decision: April 05, 2019

Bhagwan Singh

...Petitioner

Versus

Shamsher Singh

...Respondent

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL

Present: Mr. Balbir Singh, Advocate,
for the petitioner.

Ms. Nimarta Kaur, Advocate for
Mr. Sunil Agnihotri, Advocate,
for the respondent.

AMIT RAWAL, J. (Oral)

The present revision petition is directed against the impugned orders dated 13.11.2017 and 01.12.2017 of the Executing Court directing the petitioner-decree holder to pay the market value of the suit property.

Mr. Balbir Singh, learned counsel representing the petitioner submitted that in a suit for recovery, the trial Court, vide judgment and decree dated 21.03.2014, decreed the suit for a sum of ₹ 6,47,955/-, i.e., ₹4,50,000/- as principal and ₹ 1,82,025/- as interest @ 9% per annum. An application under Order 21 Rule 66 CPC for drawing proclamation of sale of the property of the defendant on account of the non-compliance of the judgment was submitted and the same was objected to. Vide order dated 16.02.2017, the objections were dismissed and the schedule of auction was drawn and as per the provisions of the Civil Procedure Code, sought the permission of participation in the auction proceedings. The Court reserved

the price as ₹ 9,91,000/- and the highest bid of the petitioner was ₹9,92,000/-. However, vide impugned order, the trial Court noticing the certificate of the Tehsildar certifying the value of the land as ₹ 20,00,000/- per acre called upon the plaintiff-decree holder to pay the balance amount. It is submitted that the impugned orders are not sustainable as the certificate was not accompanied by any documentary evidence, i.e., the rates issued by the Deputy Commissioner.

Ms. Nimarta Kaur, Advocate for Mr. Sunil Agnihotri, learned counsel for the respondent submits that there is no illegality or perversity in the impugned orders. The market price as per the report of the Tehsildar is the correct one.

I have heard the learned counsel for the parties, appraised the paper book and of the view that the impugned orders are liable to be modified to the extent that the Court below could not call upon the petitioner without taking any evidence on record by solely relying upon the certificate of the Tehsildar to determine the value of the property. No other application by any bidder or the judgment debtor has come on record for more value than the one given by the petitioner. Be that as it may, even if there was a doubt in the mind of the Executing Court, it could have put the property for re-auction but not in the manner and mode adopted.

For the reasons mentioned above, the revision petition is disposed of with a direction to the Executing Court to undertake the auction proceedings again.

April 05, 2019
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No