

EFA-6 of 2014

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

EFA-6 of 2014

Date of decision: 21.08.2019

Tejinder Singh

.....Appellant

versus

Arun Khanna and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. Sarbjit Singh, Advocate, for the appellant.

RAMENDRA JAIN, J. (ORAL)

Decree-holder has filed instant appeal against the order of the executing Court dated 11.11.2013, whereby while accepting third-party-objections filed by Union Bank of India and auction purchaser Rakesh Gupta, execution of the appellant to satisfy award dated 15.12.2008 was dismissed.

Heard.

Having given thoughtful consideration to the submissions made by learned counsel for the appellant, this Court finds the instant appeal completely devoid of any merit for the reasons to follow.

Property, which was sought to be attached and sold in auction i.e. bearing No.542-A, Ranjit Avenue, Amritsar, by the appellant was already lying mortgaged with the objector-Union Bank of India against loan amount of ₹25.00 lakh obtained by judgment-debtor-Arun Khanna. Since judgment-debtor-Arun Khanna did not adhere to the financial discipline of

the aforesaid bank, therefore, after adopting due procedure under Section 13

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(12) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and Rule 9 of the Security Interest (Enforcement) Rules, 2002, objector-bank got aforesaid property put to auction, in which highest bidder was objector-Rakesh Gupta. Accordingly, sale certificate dated 11.01.2010 was issued in favour of auction-purchaser confirming the sale, who also further obtained loan of ₹16.00 lakh from the aforesaid bank by re-mortgaging the aforesaid property.

Learned counsel for the appellant has not been able to show that the aforesaid property was ever got attached by the decree-holder under Order 38 of the Code of Civil Procedure before passing of award dated 15.12.2008 in his favour against judgment-debtor-Arun Khanna. Therefore, auction of aforesaid property by the bank on 16.10.2010, duly confirmed in favour of highest auction-bidder Rakesh Gupta and issuance of sale certificate in his favour are valid transactions. Appellant-decree-holder had no preferential right over the objector-bank and auction-purchaser-Rakesh Gupta.

Dismissed.

(Ramendra Jain)
Judge

August 21, 2019
R.S.

Whether speaking/reasoned Yes/No

Whether reportable Yes/No