

2023:PHHC:077595

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-1319-2019 (O&M)
Date of Decision: May 29, 2023

M/s Bassiarkh Rice Mills and another

...Petitioners

Versus

Punjab State Warehousing Corporation and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Himanshu Puri, Advocate for
Mr.Sunny K. Singla, Advocate
for the petitioners.

Mr.M.S.Batth, Advocate
for the respondents.

ARCHANA PURI, J.

Challenge in the present petition is to the order dated 01.12.2016 passed by learned Court below, thereby, directing the Tehsildar concerned, to transfer the ownership of the attached property, in the name of decree holder, vis-a-vis, the satisfaction of the decree dated 21.01.2013.

During the pendency of the execution petition for seeking recovery of Rs.44,10,440/-, as detailed in the application, on the basis of the judgment and decree dated 21.01.2013, an application was filed by the decree holder for seeking transfer and enter sale in the name of the decree holder of attached property, wherein, it was specifically stated that nobody is ready to bid the auction of the attached property/to purchase the attached property and in view of the same, a prayer was made for the transfer of the

same, in the name of decree holder.

Learned counsel for the parties heard.

Perusal of the impugned order reveals that in spite of warrant of sale of the attached property having been issued, the Court concerned had directly, in view of the application so filed, written a letter to the Tehsildar concerned, to transfer the ownership of the attached property, in the name of decree holder, for an amount of Rs.60,20,000/-. However, the requisite process for participation of the decree holder, in the auction proceedings, as such, has not been followed by the Executing Court. In fact, there is no provision, as such, to seek direct transfer of ownership of the attached property.

Thus, in view of the aforesaid, the process followed by learned Executing Court is erroneous and , precisely, on this account, the impugned order dated 01.12.2016 is set aside and the case is remanded back to the Executing Court, to proceed further with the execution from the stage of issuance of warrant of sale of attached property. In the eventuality of non-bidding in the auction proceedings, the decree holder may seek permission to participate in the auction proceedings, in accordance with law and thereafter, the Executing Court shall proceed further to facilitate the satisfaction of the decree dated 21.01.2013.

Accordingly, the present revision petition is hereby allowed

May 29, 2023
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No