

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

143

CR No.7542 of 2023 (O&M)
DATE OF DECISION: 15th DECEMBER, 2023

Sumit

.... Petitioner

Versus

Mahabir (since deceased) through LR's and others

.... Respondents

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present: Mr. Suvir Sidhu, Advocate
for the petitioner.

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RAJBIR SEHRAWAT, J. (Oral)

1. The present revision petition has been filed under Section 115 of CPC read with Article 227 of the Constitution of India against the impugned order dated 23.11.2023 (Annexure P-7) passed by the Civil Judge (Senior Division), Rohtak, whereby the fresh publication regarding auction of the suit property has been issued, and the order dated 24.08.2023 (Annexure P-6), whereby the Executing Court has ordered the respondent No.2 to forfeit the amount paid by the auction purchaser/petitioner, with certain other prayers made in the present petition.

2. Learned counsel for the petitioner has submitted that the petitioner could not deposit 75% amount of the auction price within a period of one week from the date of confirmation of the auction by the Court because the Court had never confirmed the sale, as such.

Therefore, the petitioner could not be prejudiced for non-deposit of 75% amount of the auction price. Accordingly, the Court below has wrongly proceeded further to fix the fresh schedule of the auction by ordering forfeiture of 25% amount deposited by the petitioner.

3. However, the perusal of the order passed by the Court below shows that the Court below has passed only a conditional order for fixing fresh schedule after granting opportunity to the petitioner to deposit the balance amount of auction price. The petitioner has deliberately chosen not to deposit the complete auction price as per the bid offered by him. Therefore, the fresh auction schedule fixed by the Court below through the conditional order; has rightly become operational. No fault can be found with the process adopted by the Court below.

4. Although, learned counsel for the petitioner has raised objection qua forfeiture of 25% of the amount already deposited by the petitioner, however, even on that count, the argument of learned counsel for the petitioner does not have any substance. Forfeiture of amount was the one of the terms of the auction only in which the petitioner had participated. Therefore, the petitioner was well aware of the consequence of forfeiture of 25% of the amount if he was to default in completing the payment of the auction price. Hence, now the petitioner cannot shift the blame towards anyone else.

5. Another fact which deserves to be noted, and which has even been mentioned in the order passed by the Court below, is that the execution is pending since the year 2018. The record also shows that the judgment debtor has been making every possible effort to ensure that the execution is not carried out to the logical end. At one stage, the judgment

debtor was even burdened with a cost of Rs.1.00 Lakh by the Court below. Despite that, he has not permitted the things to move on. The conduct of the petitioner and of the judgment debtor vehemently suggest that there is a family connection between them. Otherwise, the petitioner had no reason to first go for the auction and then not deposit the money within time. This conduct of the petitioner as well, is in line of the previous conduct of the judgment debtor.

6. In view of the above, this Court does not find any illegality or perversity with the order passed by the Court below. Hence, the present petition is dismissed.

15th DECEMBER, 2023
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(RAJBIR SEHRAWAT)
JUDGE

Whether speaking/reasoned:	Yes	No
Whether Reportable:	Yes	No