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CRP.No.4771 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.11.2024

CORAM:

**THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR**

**C.R.P.No.4771 of 2024**

S.Balaji

.. Petitioner

Versus

1.M.Vikash Kumar

2.The Madras Rattan Bazaar  
Road Cabinet and Rattan  
Merchants Charities Sabha  
Rep by its Trustees, Mr.K.Kamal  
S/o.Balachandraraj  
No.18, Chidambaranathan Street  
Opposite to Stanley Hospital  
Royapuram, Chennai – 600 013

.. Respondents

Prayer:- Civil Revision Petition filed under Section 115 of Code of Civil Procedure, 1908, to set aside the docket order passed in E.P.No.5441 of 2022 on the file of the XXV Assistant Judge, City Civil Court, Chennai in O.S.No.5769 of 2022 on the file of the Additional Judge, City Civil Court, Chennai dated 03.10.2024.

For Petitioner : Mr.Om Sai Ram

**ORDER**



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Challenge has been made to the impugned docket order passed by the Executing Court rejecting the request of the petitioner to extent the time to another 45 days to deposit full amount of purchase money.

2. The petitioner was successful auction purchaser in auction conducted by the Trial Court in E.P.No.5441 of 2022 in O.S.No.5769 of 2022. The total purchase money is Rs.1,40,65,000/-. The petitioner has deposited 25% of the total amount of purchase, however, he has not deposited the remaining amount within a period of 15 days as mandated under law. At this stage, the petitioner sought permission to extend the time by another 45 days to deposit the remaining purchase money. The Trial Court declined to grant time. Challenging the same, this revision is filed.

3. The learned counsel for the petitioner submitted that he had already deposited a sum of Rs.35,16,250/- towards 25% of the total purchase money. When the time is sought to be extended by another 45 days, the same has been negated. Hence, it is the contention that he is ready to pay remaining amount provided time is extended or the amount deposited by the petitioner may be directed to be repaid.



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4. As the matter is between the Court and the petitioner, no notice is required to the respondents. Heard the learned counsel for the petitioner and perused the materials placed on record.

5. As far as the deposit of sale price in Court auction in the executing proceedings is concerned, is governed under Order XXI Rules 84 to 86 of CPC. Order XI Rule 84 of CPC makes it very clear that on every sale of immovable property the person declared to be the purchaser shall pay immediately after such declaration a deposit of twenty-five per cent. on the amount of his purchase-money to the officer or other person conducting the sale, and in default of such deposit, the property shall forthwith be re-sold.

6. Therefore, once the auction purchaser has deposited 25% of the amount on the date of auction, the next thing is payment of remaining sale consideration and the same has to be paid within a period of 15 days as per Order XXI Rule 85 of CPC. In the event of default of payment of within the stipulated period, if the Court thinks fit, after defraying the expenses of the sale, be forfeited to the Government and the property shall be resold and the defaulting purchaser shall forfeit all claims to the property or to any part of the same for which it may subsequently be sold. The provisions of



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Order XXI Rules 84 to 86 of CPC are mandatory in nature. The term "immediately" under Order XXI Rule 84 is required to be construed as a meaning "within reasonable time". Where an act is to be done within reasonable time. The Hon'ble Supreme Court in the case of *Rosali V vs. Taico Bank and others* reported in (2019) 17 SCC 690 has held as follows:

*"31. The term "immediately", therefore, must be construed having regard to the aforementioned principles. The term has two meanings. One, indicating the relation of cause and effect and the other, the absence of time between two events. In the former sense, it means proximately, without intervention of anything, as opposed to "mediately". In the latter sense, it means instantaneously. The term "immediately", is, thus, required to be construed as meaning with all reasonable speed, considering the circumstances of the case.*

*32. In a given situation, the term "immediately" may mean "within reasonable time". Where an act is to be done within reasonable time, it must be done immediately."*

7. Considering the above, this Court is of the view that as the statute mandates particular things have to be done in a particular manner within a specific period, the question of extending the time will not arise at all. Hence, the rejection to extend the time to pay the balance sale consideration passed by the Trial Court is perfectly valid. Further, on perusal of Order XXI Rule 86 of CPC makes it very clear that in the event



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of default of payment within the period mentioned in the last preceding rule, the deposit may, if the Court thinks fit, after defraying the expenses of the sale, be forfeited to the Government. Therefore, whether the entire amount to be forfeited to the Government after defraying the costs is the discretion of the Court. Such discretion is normally exercised judicially taking into consideration of the entire situation. Though the petitioner has committed mistake in complying the order, this Court is of the view that entire amount may not be ordered to be forfeited to the Government for mere negligence on the part of the party.

8. Such view of the matter, this Court is of the view that after deducting the defraying expenses of the sale amount deposited by the revision petitioner shall be returned to the party by the Executing Court. Hence, there shall be a direction to the Executing Court to return the amount after deducting the expenses of sale process and return the remaining amount to the party. Such exercise shall be completed within a period of four months from the date of receipt of a copy of this Order.

9. Accordingly, this revision stands disposed of. No costs.



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Index : Yes/No  
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To,

1.The XXV Assistant Judge  
XXV Assistant Court, City Civil Court, Chennai

**N.SATHISH KUMAR, J.,**

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