

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

**1032 WRIT PETITION NO. 8805 OF 2023
WITH
CIVIL APPLICATION NO. 12988 OF 2024
IN WP/8805/2023**

**NAMDEO PAULAD PATIL
VERSUS
MS SHRIRAM CITY UNION FINANCE LTD GPA NAMELY RAKESH K
YEWALE AND ANOTHER**

...
Advocate for the Petitioner : Mr. Bora Satyajit S.
Advocate for Respondent No. 1 : Mr. Bhide Vinod Y.
Advocate for Respondent No. 2 : Mr. Madake Datta A.
...

**CORAM : SIDDHESHWAR S. THOMBRE, J.
DATE : 10.12.2025**

PER COURT :

1. Heard the learned Counsel for the respective parties.
2. By way of this petition, the petitioner assails the common order dated 23.06.2023 passed below Exhibits 98 and 99 by the learned Joint Civil Judge Senior Division Jalgaon in Arbitration Regular Darkhast No. 130 of 2019, whereby, application filed by Jayprakash Vivek Kankhare/respondent No. 2, the purchaser for depositing 25% amount of the bid came to be allowed, thereby directing him to deposit the entire amount of auction sale in the Court.
3. Mr. Bora, the learned Counsel for the petitioner submits that auction was conducted on 10.04.2023. He invited my attention to the auction report at Page No. 58 of the petition and points out that when

the purchaser purchased the property, the sale was confirmed and on the same day he was required to deposit 25% of the amount and remaining 75% of the amount was to be deposited within 15 days, but he has failed to do so. Therefore, he submits that learned executing Court ought not to have allowed the application filed by the purchaser to accept the amount.

4. In support of his contention he relied upon the decision of the Hon'ble Apex Court in the case of **Gas Point Petroleum India Limited Vs. Rajendra Maruti and others** reported in **AIR 2023 SC 936** and invited my attention to paragraph Nos. 7.4, 7.5. and 7.6 which are reproduced as follows :

“7.4 As per Order 21 Rule 84, on every sale of immovable property the person declared to be the purchaser shall pay immediately after such declaration deposit of twenty-five per cent on the amount of his purchase-money and in default of such deposit, the property shall forthwith be resold.

7.5 As per Order 21 Rule 85, the full amount of purchase-money payable shall be paid by the purchase into Court before the Court closes on the fifteen day from the sale of the property. Thus, as per the aforesaid provisions, the purchaser has to deposit 25% of the sale amount immediately on declaring to be the purchaser and the full amount of the purchase-money shall have to be paid by the purchaser into the Court before the Court closes on fifteen day from the sale of the property.

7.6 In the present case admittedly the purchaser - Respondent No. 1 deposited 25% of the amount on 03.11.2011 and did not deposit 25% of the amount as required under Order 21 Rule 84 immediately. The auction purchaser was required to deposit 25% of the amount the day on which he was declared purchaser i.e. 18.10.2011. Even the balance 75% of the amount has not been deposited as required under Order 21 Rule 85.

The full amount of the purchase- money in the present case has been deposited on 04.11.2011 i.e. the after period prescribed/provided under Order 21 Rule 85. Therefore, there is non-compliance of Order 21 Rule 84 and Rule 85 of Code of Civil Procedure.”

5. Mr. Bora, learned Counsel for the petitioner submits that in view of the above law laid down by the Hon'ble Apex Court he submits that once the sale was conducted on 10.04.2024 and petitioner failed to deposit amount of 25% of the amount on same day and remaining 75% of the amount thereafter within 15 days of the sale, the sale automatically has been cancelled. Therefore, the executing Court was required re-auction the property.

6. Per Contra, learned Counsel for respondent No. 1 supports the order passed by the learned trial Court.

7. I have gone through the order passed by the learned executing Court and the auction report at page No. 57 and 58 of this petition. There is no dispute about the date of auction i.e. 10.04.2023. The auction report shows an endorsement made on it at the time of auction by the purchaser that he is ready to deposit the total amount and bears his signature.

8. The petitioner had objected the sale and therefore sale proceeding was not confirmed and kept for further order. The purchaser filed an application for permission to deposit the amount as the sale was not confirmed on the date of auction, the learned trial Court after considering the report had observed that on 10.04.2023 the sale was not confirmed.

9. In the case of **Gas Point Petroleum** (Supra) the Hon'ble Apex Court in paragraph No. 7.4, 7.5 and 7.6 has observed that as per Order XXI Rule 84 of the Code of Civil Procedure, 1908, on every sale of immovable property the purchaser shall pay immediately after such declaration deposit of 25% of the amount and remaining 75% amount within 15 days and in default of such deposit, the property shall forthwith be re-sold.

10. But in the present matter auction report shows that on the same day the purchaser has filed an application showing his readiness and willingness to deposit the purchase amount and the auction report depicts that the sale was not confirmed on 10.04.2023 and due to objection by the petitioner it was referred for further order to the executing Court.

11. It can be gathered that when the purchaser filed application below Exhibit 98 and 99, the learned Executing Court directed the purchaser to deposit the whole purchase amount, which implies that the sale was confirmed when the learned executing Court allowed the said applications directing the petitioner to pay whole purchase amount.

12. In my opinion, the learned executing Court has rightly allowed the application filed by the purchaser. Therefore, I do not find any reason to interfere with the common order dated 23.06.2023 passed below Exhibits 98 and 99 by the learned Joint Civil Judge Senior Division Jalgaon in Arbitration Regular Darkhast No. 130 of 2019 under article 227 of the Constitution of India.

13. In view thereof the Writ Petition is dismissed. No order as to the costs.

14. Consequently the pending Civil Application is disposed of.

(SIDDHESHWAR S. THOMBRE, J.)

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