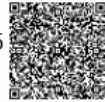


IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

123

2025:PHHC:038885



ESA-11-2019 (O&M)
Date of decision: 21.03.2025

JALANDHAR TRANSPORT COOPERATIVE SOCIETY

..Appellant

Versus

RITU CHADHA

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Amardeep Singh Gill,
Advocate for the appellant..

ANIL KSHETARPAL, J(Oral)

1. After hearing learned counsel for the appellant, the following order was passed on 19.03.2025:-

“Arguments of learned counsel for the appellant have been heard at length.

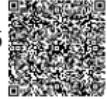
The appellant herein is a judgment debtor. His property was sold in a Court auction held on 01.05.2017. He filed an application on 14.09.2017, challenging the Court auction on the ground of illegality. In the alternative, he prays for permission to set aside the sale of deposit. He tendered the auction amount (+) plus 5% by depositing a cheque. As per the Order XXI Rule 89(2) of the Code of Civil Procedure, 1908, if a person applies under Order XXI Rule 90 to set aside the sale of his immovable property, he has to first withdraw his application under Order XXI Rule 90 i.e. to set aside the same. In absence thereof, application under Order XXI Rule 89 is not maintainable.

Learned counsel for the petitioner contends that the limitation period will begin to run from the date, the sale was confirmed and not from the date of auction. He submits that the Court auction was confirmed on 30.08.2017.

On a Court question, “as to how he is reading the date of sale as date of confirmation of auction, he prays for some time to search case law interpreting the provision?”

List on 21.03.2025, in the urgent list.

No further request, written or oral, for an adjournment shall be entertained.”



2. Learned counsel for the appellant has once again been heard.
3. He fairly submits that he could not find any judgment interpreting Order XXI Rule 89 of the Code of Civil Procedure, 1908 to lay down that the period of limitation for filing application under Order XXI Rule 89 will begin to run from the date of confirmation of sale and not from the date of Court auction.
4. Once, it is proved that the application filed by the appellant was beyond the prescribed period of limitation, hence, there is no ground to interfere with the order passed by the First Appellate Court.
5. Dismissed.
6. All the pending miscellaneous applications, if any, are also disposed of.

March 21st, 2025

Ayub

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*