



-1-

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

109

CR-541-2023

Decided On: 19.05.2025

M/S TATVADARSHI BANDHU PRIVATE LIMITED

....PETITIONER(s)

Versus

OMAXE LIMITED

....RESPONDENT(s)

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. Jaivir Yadav, Senior Advocate with
Mr. Aman Gautam, Advocate and Mr. Ashutosh, Advocate
for the petitioner.

TRIBHUVAN DAHIYA J.(Oral)

The revision petition has been filed against the order dated 19.07.2022, passed by learned Additional District Judge, Faridabad/Executing Court, on an application filed by the petitioner/judgment debtor under Order XXI Rules 64 and 66 read with Section 151 CPC, in execution petition no.108 of 2015.

2. Facts relevant to decide the matter are, there was a collaboration agreement entered into between the parties on 04.08.2004. Disputes arose, and the matter was referred to arbitration. The arbitral tribunal pronounced an award on 06.12.2012, which attained finality. In terms therewith, the petitioner/judgment debtor is liable to pay approximately ₹4,00,00,000 with interest, which comes to around ₹10,00,00,000 to the respondents/decreed holders. The execution proceedings have been initiated by the respondents, wherein the Executing Court ordered auction of the entire land owned by the petitioner, measuring 111 acres, to satisfy the award. The petitioner



-2-

approached this Court earlier by filing EFA-2-2022 titled *Tatvadarshi Bandhu Pvt. Ltd. v. Omaxe Ltd.*, which was disposed of vide order dated 02.06.2022, relevant part whereof is as under:

The learned counsel representing the appellant contends that the Executing Court has ordered auction of the entire land measuring 111 acres against a decree of approximately Rs.4 Crores plus interest which will nearly Rs.10 Crores. He submits that for recovery of Rs.10 Crores, there is no requirement to sell the entire land.

A bare look at the orders passed by the Executing Court, it is evident that the appellant never drew the attention of the Executing Court on this aspect of the matter. It has been stated that the auction for sale of the property is slated for 07.06.2022.

Keeping in view the aforesaid facts, let the appellant, at the first instance, file an application before the Executing Court in this regard, which shall be disposed of by the Executing Court within a period of two days, while taking a pragmatic view of the matter.

2.1. In terms of liberty granted by this Court vide the order aforementioned, the petitioner moved an application before the Executing Court on 06.06.2022, Annexure P-7, for recall of auction on the following grounds:

5. That before passing impugned order for auction of properties of JD, the Ld. Executing Court did not follow the procedure laid down under Act:

- (i) that property in dispute qua which auction has been passed is not identified. The property is still joint with other co-sharers and suit for partition is still pending before Addl. Civil Judge (Sr. Divn.), Faridabad;
- (ii) that Hon'ble Court failed to consider how much amount stands due against JD as on date of passing order for auction;



-3-

- (iii) that Hon'ble Executing Court further failed to consider how much land is required to satisfy the decree;
- (iv) that Revenue assessed upon the estate or part of the estate where property to be sold is an interest in an estate or part of an estate paying revenue to Govt.;
- (v) that any encumbrance to which property is liable.

2.2. The Executing Court, however, dismissed the same vide the impugned order dated 19.07.2022, on the ground that the objections/application filed by the petitioner, dated 06.06.2022, could not be considered to have been filed in terms of order, dated 02.06.2022, passed by this Court. The observations by the Executing Court are as under:

From the perusal of the aforesaid order, it is clear that learned counsel for the judgment debtors have submitted before the Hon'ble High Court that *"the executing court has ordered auction of the entire land measuring 111 acres against a decree of approximately Rs.4 crores plus interest which will nearly Rs.10 crores. He submits that for recovery of Rs.10 crores, there is no requirement to sell the entire land"*. In view of the said submissions of learned counsel for the judgment debtors, Hon'ble High Court directed that *"keeping in view the aforesaid facts, let the appellant (judgment debtor), at the first instance, file an application before the Executing Court in this regard"*. However, instead of moving application to that extent, judgment debtors have filed present objections alleging that the **"order of auction of suit property is bad in law and does not fulfill the mandatory provisions of Order 21 Rule 64 and 66 CPC"**. Thus the present objections cannot be considered to be filed in compliance of order dated 02.06.2022 passed by Hon'ble High Court.

3. In this background, learned senior counsel contends that the impugned order is perverse as it is apparent on record that the petitioner did



-4-

assert that only the land required to satisfy the decree should be auctioned. It was his specific case that entire land measuring 111 acres could not be auctioned since only an amount of ten crores was to be paid. In fact, under the provisions of Order XXI Rules 64 and 66 CPC, the Court is required to sell only such portion of property as is necessary to satisfy the decree.

3.1. Learned senior counsel also contends that despite the impugned order having been passed on 19.07.2022, the execution proceedings are still pending. The Executing Court had sought a report from the concerned Naib Tehsildar, which was received only on 07.03.2025. The proceedings now stand adjourned to 15.07.2025 for consideration on the report. He also contends that the petitioner restricts the prayer in the application only to the extent liberty has been granted by this Court vide order dated 02.06.2022.

4. In view of the facts aforementioned, it is apparent that the petitioner was granted liberty by this Court to file an application before the Executing Court raising objections against auction of his entire land measuring 111 acres in satisfaction of the decree/award. However, the application moved by the petitioner to that effect, dated 06.06.2022, was not considered by the Executing Court on the plea that it had not been filed in terms of the order. A bare perusal of the application itself makes it clear that one of the issues raised therein is to determine how much land will be required to satisfy the decree in question. Even otherwise, the Court was only required to consider and decide as to how much land was required to be auctioned in satisfaction of the decree/award, and the scope to decide the issue could not have been expanded or restricted by averments in the application or the prayer made. Now, learned senior counsel has also undertaken that the



only issue that will be pressed before the Executing Court is, the extent of petitioner’s land required to be auctioned in satisfaction of the decree/award.

5. In view thereof, the impugned order, dated 19.07.2022, is set aside and the Executing Court is directed to re-consider and decide the petitioner’s application, dated 06.06.2022, on the issue mentioned hereinabove.

19.05.2025
Ad

(TRIBHUVAN DAHIYA)
JUDGE

<i>Whether speaking/reasoned?</i>	<i>Yes/No</i>
<i>Whether reportable?</i>	<i>Yes/No</i>