

(2013) 10 P&H CK 0275

High Court Of Punjab And Haryana At Chandigarh

Case No: Case No.: R.A. No. 149-CII of 2013 in C.R. No. 2117 of 2006

Lakhvir Singh

APPELLANT

Vs

State Bank of India and Others

RESPONDENT

Date of Decision: Oct. 10, 2013

Hon'ble Judges: L.N. Mittal, J

Bench: Single Bench

Advocate: R.S. Mittal and Mr. Chander Shekhar, for the Appellant;

Final Decision: Dismissed

Judgement

L.N. Mittal, J.

C.M. No. 20540-CII of 2013:

1. Allowed as prayed for.

R.A. No. 149-CII of 2013:

This is application by petitioner for review of order dated 11.09.2013 passed by this Court, whereby revision petition filed by the review-applicant was dismissed.

2. I have heard learned senior counsel for the applicant-petitioner and perused the case file.

3. Counsel for the applicant-petitioner contended that the Executing Court, while passing the impugned order dated 01.03.2006, failed to take notice of application dated 17.11.2005 (Annexure P-1) filed by judgment-debtor (JD) no. 3 - petitioner, for deposit of the entire amount for setting aside the auction sale. It was contended that in view of Order 21 Rule 89 of the CPC (in short - CPC), the auction sale should have been set aside.

4. The aforesaid contention is completely misconceived and meritless.

5. Application (Annexure P-1) filed by the petitioner was not under Order 21 Rule 89 CPC. In fact, no provision of law was mentioned in the said application. Irrespective thereof, the said application does not fulfill the requirements of Order 21 Rule 89 CPC. The petitioner mentioned in the said application that he was ready to deposit all the amount, as per law, provided the auctioned land was transferred in his favour exclusively, by way of registered sale deed. However, this was not permissible under Order 21 Rule 89 CPC because the land did not belong to the petitioner alone, who was only co-sharer therein. Under Order 21 Rule 89 CPC, on deposit of requisite amount, auction sale of the land is set aside and the land reverts to the owners. In the instant case, however, the petitioner repeatedly mentioned in the application (Annexure P-1) that on deposit of the amount by him, the auction should be confirmed in his favour. This is not permissible under Order 21 Rule 89 CPC. There is no ground for review of impugned order dated 11.09.2013 within the parameters of Order 47 Rule 1 CPC. The Review Application is completely misconceived and meritless and is accordingly dismissed.