



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO. 996 OF 2023
WITH
INTERIM APPLICATION NO. 17822 OF 2023
IN
APPEAL FROM ORDER NO. 996 OF 2023

Mr. Bhamhadeo B. Pal (Decd.) thr. LRs

Dinesh B. Pal & Ors.

...Appellants

V/s.

Mr. Prabhakar Mishra & Anr.

...Respondents

Ms. Anusha P. Amin, for the Appellants.

Ms. Shivani S. Kunder, for Respondent no. 2.

CORAM : FARHAN P. DUBASH, J.

DATE : 17th APRIL 2026

P.C.:

1. The present Appeal impugns an order dated 7th October 2023 passed by the Trial Court in an Application filed by the legal heirs of the judgment debtor under the provisions of Order XXI Rule 92 of the Code of Civil Procedure, 1908 (**CPC**). By this Application, the legal heirs of the judgment debtor sought to set aside a confirmed Court sale and sale certificate dated 13th November 2013 issued in favour of the auction purchaser in respect of the scheduled property.

2. Ms. Anusha Amin, learned Counsel who appears on behalf of the Appellants, submits that considering the provisions of Order XXI Rule 84 and 85, the Court could not have confirmed the sale in as much as the auction

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purchaser failed to deposit the consideration within the timelines stipulated.

3. Ms. Shivani Kunder, learned Counsel who appears for the Respondent no. 2 submits that in fact the entire sale consideration was deposited within the timelines as prescribed by the Court. She further submits that when the Court itself has granted an extension and the auction purchaser has complied with the terms and conditions and deposited the money in accordance with the orders passed by Court and that the sale certificate was confirmed as far back in 2013, the present Application is devoid of any merits.

4. Having considered the submissions made by the parties and upon perusal of the impugned order, I am of the view that there is no infirmity therein. The Trial Court has considered the submissions made by the Appellants. The Trial Court has found favour with the argument that the Court had exercised its discretion by allowing the auction purchaser to deposit the money and that the sale certificate was also issued by the Court in 2013 and therefore, despite an opportunity that was available to the judgment debtor and/or his legal heirs, the same was not availed. The Trial Court has also considered that the clock could not be turned back after a period of 10 years merely on this ground and that the same would amount to miscarriage of justice. The Trial Court has also relied on Order XXI Rule 89 of the CPC, which permits the judgment debtor to deposit the auction sale amount within a period of 60 days before confirmation of sale by the Court



and recorded a finding that this has admittedly not been done in the present case and therefore, the Trial Court has rightly rejected the Application preferred by the Applicants. The Trial Court has also recorded a finding that if it was the contention of the legal heirs that the original judgment debtor had passed away on 21st August 2011, it was their duty to inform the Court about his death and since the same was not done, the Court has not considered the submissions to that effect made by the Applicants.

5. The judgment of the Supreme Court in *Gas Point Petroleum India Limited Vs. Rajendra Marothi & Ors.*¹, that is relied upon by the Appellants, is also of no assistance, in as much as in the present case, the auction purchaser has complied with the revised timelines that are ordered by this Court itself and therefore this decision can be distinguished on facts.

6. Considering the above, the Appellants have not been able to point out any infirmity in the impugned order. Accordingly, the present Appeal is dismissed with no order as to costs. All pending Interim Applications, if any, shall also stand disposed of.

(FARHAN P. DUBASH, J.)

Amol

1 (2023) 6 SCC 391