

Kaur Singh Vs. Hardev Kaur

Kaur Singh Vs. Hardev Kaur

SooperKanoon Citation : sooperkanoon.com/625260

Court : Punjab and Haryana

Decided On : Sep-24-1993

Reported in : (1993)105PLR651

Judge : V.K. Jhanji, J.

Acts : [Code of Civil Procedure \(CPC\) , 1908](#) - Order 21, Rules 85, 86 and 94

Appeal No. : C.R. No. 1114 of 1992

Appellant : Kaur Singh

Respondent : Hardev Kaur

Advocate for Pet/Ap. : B.S. Bhasaur, Adv.

Disposition : Petition allowed

Judgement :

V.K. Jhanji, J.

1. One Hardev Kaur filed a suit against her husband for a recovery of maintenance at the rate of Rs. 500/- per month. Suit was decreed for a sum of Rs. 27,803.25 P. In execution for the recovery of the decretal amount, property of her husband, Gurjant Singh, was sold for Rs. 30,000/-. Petitioner was declared to be the highest bidder, 1/4th amount of the total sale consideration was deposited by him with the

Revenue Patwari at the time of bid, and the same was deposited by the Kanungo on 28.5.1991. Subsequently, petitioner paid the remaining 3/4th amount as per directions of the Court to the decree holder. After having paid deposited the total sum of Rs. 30,000/- he made an application that sale certificate to this effect be issued in his name. Gurjant Singh whose property was sold, also made an application that after payment of the amount to the decree-holder, the remainder be paid to him. Hardev Kaur also made an application that she be paid the amount according to the decree. All these three applications were dismissed. The auction-purchaser has impugned the order in the present revision petition.

2. The only grievance of the auction-purchaser is that he having paid the entire auction amount; was entitled to the issuance of sale certificate, and for no reason whatsoever his application to this effect was dismissed by the executing Court.

3. From the impugned order, I find that the application was dismissed by the executing Court only on the ground that the auction-purchaser failed to deposit 1/4th amount on the date when the auction was held and further failed to deposit/pay the remaining 3/4th amount within stipulated period of fifteen days from the date of auction. It is not clear from the order as to whether any objections were filed by the judgment debtor in opposite to the prayer of the auction-purchaser for the issuance of sale certificate. If no such objections were filed and the judgment-debtor was not aggrieved with regard to deposit of amount, there was no reason for the executing Court to reject the prayer of the auction-purchaser for the issuance of sale certificate. It is also not clear from the impugned order as to whether the wife was paid the entire amount because Rs. 10,500/- were deposited by the auction-purchaser in Court on 10.6.1991. The order under revision, therefore, cannot be sustained.

4. Consequently, the revision petition is allowed and the order under revision is set aside, with a direction to the executing Court to decide the application of the auction-purchaser afresh, keeping in view the observations made by this Court. The executing Court shall also determine as to whether decree in favour of the wife stands satisfied or not.

5. Parties through their counsel re-directed to appear before the executing Court on 15.10.1993.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com