
(2012) 03 MP CK 0066
In the Madhya Pradesh High Court
Case No : Civil Rev. No. 80 of 2012

Alok Badal

APPELLANT

Vs

State Bank of Indore and Others

RESPONDENT

Date of Decision : 07-03-2012

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 21 Rule 84, Order 21 Rule 85, Order 21 Rule 86, 148

Citation : (2012) 2 MPHT 303 : (2012) 2 MPLJ 534

Hon'ble Judges : R.C. Mishra, J

Bench : Single Bench

Advocate : Abhijeet A. Awasthi, for the Appellant;

Judgement

R.C. Mishra, J.—Heard on admission. This revision is directed against the order dated 25-1-2012 passed by IX ADJ, Bhopal in Execution Case No. 288/07-08 setting aside the auction-sale proceedings for non-deposit of purchase money within the period of 15 days from the sale of the property as prescribed under Rule 85 of Order XXI of Code of Civil Procedure.

2. The legal consequences of default of payment of purchase money have been enumerated in Rule 86 of Order XXI of the Code. Accordingly, after defraying expenses of the auction sale, the property has to be re-sold. The provisions of Rules 84 and 85 of Order XXI are mandatory and upon noncompliance with these provisions, there is no sale at all Manilal Mohanlal Shah and Others Vs. Sardar Sayed Ahmed Sayed Mahamad and Another, referred to. As explained further, even the inherent powers of the Court cannot be invoked to circumvent these mandatory provisions of the Code.

3. As an obvious corollary, contention that the time to deposit the remaining 75% of the purchase money could be extended u/s 148 of the Code as the application for extension of time (Annexure A-5) moved before expiry of the prescribed period of 15 days is apparently misconceived as Rules 84 and 85 leave no discretion of power to Court to extend time statutorily fixed by these

Rules or to condone any delay in depositing the purchase money.

4. Moreover, a fact that the decree holder has pleaded no objection to the prayer for extension of time to deposit the remaining amount of purchase money also does not assume any significance.

5. Thus, viewed from any angle, the order does not call for any interference under the revisional jurisdiction. The revision, therefore, stands dismissed in limine.