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**(2015) 02 JH CK 0177**  
**In the Jharkhand High Court**  
**Case No : CWJC No. 6738 of 1995**

Anisuddin

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

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**Date of Decision :** 13-02-2015

**Acts Referred:**

**Citation :** (2015) 3 JLJR 135

**Hon'ble Judges :** S. Chandrashekhar, J

**Bench :** Single Bench

**Advocate :** Arvind Kr. Choudhary, Ritu Kumar, Samavesh Bhanj Deo and Vikash Kumar, for the Appellant; Atanu Banerjee, Advocates for the Respondent

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## Judgement

S. Chandrashekhar, J—Aggrieved by order dated 14.8.1995 whereby, the auction sale dated 28.7.1995 was cancelled, the present writ petition has been filed. The brief facts of the case are that, a proceeding for recovery of rent for immovable property belonging to the respondent No. 3, Revenue Misc. Case No. 167/1994-95 was initiated in the Court of Sub-Divisional Magistrate, Madhupur and in spite of registered notice issued to the respondent No. 3 and her son they did not appear in the proceeding before the Sub-Divisional Magistrate, Madhupur and consequently, a public notice was issued for auction of land in question for recovering land revenue which was not paid since 1987-88. On 28.7.1995 in the public auction, 13 persons participated and the bid of Rs. 51,000/- of the petitioner was found highest. The petitioner was directed to deposit the said amount within one week with the Circle Nazir, which the petitioner duly deposited on 3.8.1995 and obtained receipt. The Sub-Divisional Officer issued certificate dated 4.8.1995 confirming the sale however, on 14.8.1995, the certificate issued in favour of the petitioner and the auction sale were cancelled on the ground of procedural fault. Aggrieved, the petitioner has moved this court by filing the present writ petition.

2. A counter-affidavit has been filed on behalf of the respondent Nos. 1 & 2 stating that the land and building measuring an area of 4 bighas 10 kathas

commonly known as "Sheel Villa" is recorded in the name of Sandhya Rani Seal. After the auction sale, one Sarju Raiwar, caretaker of "Sheel Villa" filed application on 4.8.1995 regarding irregularities committed in the auction. The Sub-Divisional Officer, Madhupur after examining the record found that the proceeding for recovery was not initiated under the "Public Demand Recovery Act" and the original landlord Sandhya Rani Seal was not duly served notice and therefore, the auction sale was cancelled.

3. Heard the learned counsel for the parties.

4. Mrs. Ritu Kumar, the learned counsel appearing for the petitioner submits that a confirmed sale cannot be cancelled on a vague plea of procedural fault. The petitioner was the highest bidder in the Court auction in which 13 persons participated. The plea taken by the Sub-Divisional Officer that the original landlord was not served notice, is contrary to the materials on record in as much as, in spite of registered notice issued to her, she never appeared in the proceeding and in fact, one Sarju Raiwar care-taker of "Sheel Villa" appeared in the proceeding before the Sub-Divisional Officer.

5. As against the above, Mr. Atanu Banerjee, the learned G.A. submits that in view of complaint dated 4.8.1995 the matter was examined by the Sub-Divisional Officer, who found that certain irregularities were committed in the auction sale and therefore, vide order dated 14.8.1995, the auction sale held on 28.7.1995 has rightly been cancelled.

6. I have carefully considered the submissions of the learned counsel for the parties and perused the documents on record.

7. From order dated 28.8.1995 in Rev. Misc. No. 167/1994-95, it appears that in the auction sale dated 28.7.1995, 13 persons participated and the petitioner was declared the highest bidder. Order dated 28.7.1995 records that the report of proclamation for auction sale was received. The auction was held in the Court of Sub-Divisional Officer, Madhupur. The petitioner was directed to deposit a sum of Rs. 51,000/- within one week which, the petitioner duly deposited on 3.8.1995. It further appears that a certificate was issued by the Sub-Divisional Officer, Madhupur on 4.8.1995 whereby, the sale was confirmed and the landed property along with the structures thereon were transferred to the petitioner. However, vide letter dated 14.8.1995, the auction sale dated 28.7.1995 and the certificate dated 4.8.1995 were cancelled. A perusal of the impugned order dated 14.8.1995 discloses no reason except that there was "procedural error" in the auction held on 28.7.1995 and therefore, the action sale and the certificate were cancelled. It is not the case of the respondents that the auction sale was concluded at a very low price rather, it is recorded in order dated 28.7.1995 that the amount payable on account of land revenue was Rs. 1012.55 whereas, the auction sale concluded for an amount of Rs. 51,000/-. There is no allegation of any collusion with the court staff involved in the auction sale. The auction sale was conducted in the Court of Sub-Divisional Officer, Madhupur. After the sale

was confirmed and the properties were transferred by issuing certificate dated 4.8.1995, I am of the opinion that the auction sale and the certificate could not have been cancelled, without issuing a notice to the petitioner. Admittedly, no notice was issued to the petitioner and without hearing the petitioner, the auction sale dated 28.7.1995 and the certificate dated 4.8.1995 were cancelled.

8. In " Union of India (UOI) Vs. Ibrahim Uddin and Another, (2012) 6 JT 466 : (2012) 4 RCR(Civil) 727 : (2012) 6 SCALE 476 : (2012) 8 SCC 148 : (2013) AIRSCW 2752 : (2012) 4 Supreme 585 , the Hon'ble Supreme Court has held as under:--

"44. It is settled legal proposition that not only administrative order, but also judicial order must be supported by reasons, recorded in it. Thus, while deciding an issue, the court is bound to give reasons for its conclusion. It is the duty and obligation on the part of the court to record reasons while disposing of the case. The hallmark of order and exercise of judicial power by a judicial forum is for the forum to disclose its reasons by itself and giving of reasons has always been insisted upon as one of the fundamentals of sound administration of the justice delivery system, to make it known, that there had been proper and due application of mind to the issue before the court and also as an essential requisite of the principles of natural justice. The reason is the heartbeat of every conclusion. It introduces clarity in an order and without the same, the order becomes lifeless. Reasons substitute subjectivity with objectivity. The absence of reasons renders an order indefensible/unsustainable, particularly when the order is subject to further challenge before a higher forum. Recording of reasons is the principle of natural justice and every judicial order must be supported by reasons recorded in writing. It ensures transparency and fairness in decision-making. The person who is adversely affected must know why his application has been rejected."

In view of the above discussion, I am of the opinion that the impugned order dated 14.8.1995 is liable to be set-aside and is hereby set-aside. However, a liberty is reserved with the respondent No. 2 to reopen the proceeding of Rev. Misc. No. 167/1994-95 and after issuing notice to the petitioner and affording sufficient opportunity to him for defending the property purchased by him in the auction sale, appropriate order may be passed by the respondent No. 2, in accordance with law.