

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Ist Appeal No.01 of 2020

Date	Order with signature of Judge(s)
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Hearing Case (Priority)

1. For hearing of CMA No.1661/2022.
2. For hearing of CMA No.1662/2022.
3. For orders on office objection/reply as at Flag "A."
4. For hearing of Main Case.
5. For hearing of CMA No.03/2020.

01.02.2024

Aijaz Hussain Shirazi, Advocate for Respondent No.1.
M/s. Badar Alam and Kashif Badar, Advocates for Auction Purchaser.

Mr. Rashid Ali, Advocate holds brief for Mr. Muhammad Shafiq Malik, Advocate for the appellants, who is not in attendance.

This Appeal is arising out of two orders passed by the Banking Court No.IV at Karachi in Suit No.589/2017 and in Execution No.14/2017. The two orders are of the same date i.e. 18.12.2019 and for the purpose of clarity we may identify the same as one being the order confirming the sale and later dismissing the application under Order XXI Rule 90, CPC, was not maintainable on the count that highest bid of mortgage property was accepted on 16.07.2019 and the balance amount was ordered to be deposited in fifteen days' time as prescribed under Order XXI Rule 84 and 85. There is no dispute that balance amount was deposited within time, the sale was confirmed again vide order dated 18.12.2019 which is first order impugned in this Appeal. After acceptance of the offer by the Court as highest bid on 16.07.2019, the requisite objections under Sindh Chief Court Rules and in view of the provisions of Rules 84 & 85 of Order XXI, CPC is required to be filed within thirty days. Those objections were filed belatedly on 02.12.2019, copy of which provided to the counsel on 11.12.2019.

Nonetheless, by the time the application was filed, the requisite time required for filing those objections has lapsed. It could have

been dismissed on that count alone, however, the Banking Court perused the application minutely and he found no irregularity. The terms of the sale proclamation framed and nothing and none objected at the relevant time, when the proclamation was issued. Under Rule 90 of the Order XXI, CPC, the objector is required to explain as to what illegality and fraud was committed; the property was evaluated before the sale proclamation, even otherwise, this is second attempt and the best offer was accepted.

We don't find it reasonable to interfere in the order of confirmation of sale proclamation as it was offered to the highest bidder. Notwithstanding above the appellant has not come forward with any better offer, hence the vested right of the Auction Purchaser cannot be brushed aside on flimsy ground as raised in the application under Order XXI Rule 90, CPC. With this understanding of law, the Appeal merits no consideration and is dismissed. Sale Certificate be issued in accordance with law.

JUDGE

JUDGE

M. Khan