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IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
SATISH CHANDRA SHARMA; J., VIPUL M. PANCHOLI; J.
CIVIL APPEAL NO. 2322 OF 2013; NOVEMBER 14, 2025

KOLANJIAMMAL (D) THR LRS.
versus
THE REVENUE DIVISIONAL OFFICER PERAMBALUR DISTRICT & ORS.

Tamil Nadu Revenue Recovery Act, 1864 – Challenge to Public Auction Sale – Non-compliance with statutory remedy and limitation period - Sections 37-A and 38 - Noted that Sections 37-A and 38 provide a complete mechanism for setting aside a sale of immovable property, either by depositing the due amount or by challenging material irregularity, mistake, or fraud. Both provisions prescribe a mandatory limitation period of 30 days from the date of sale- Supreme Court found that the appellant admittedly failed to file any application under these sections within the prescribed 30-day limitation period, despite the auction sale occurring on July 29, 2005- The belated challenge, raised after more than four years, was held to be impermissible- Supreme Court clarified that there was no order staying the conduct of the auction itself, only the confirmation- The stay on confirmation does not suspend the statutory obligation to seek redress within 30 days as per Sections 37A or 38 of the Act- Appeal dismissed. *[Relied on Lily Thomas v. Union of India 2000 6 SCC 224; Paras 16-18, 22-25]*

For Appellant(s) Mr. T Raja, Sr. Adv. Ms. Mary Mitzy, Adv. Mr. Oleander D Singh, Adv. Mr. Pratham Sadh, Adv. Mr. Rohit, Adv. Mr. Ashutosh Jha, AOR

For Respondent(s) Mr. Sabarish Subramanian, AOR Ms. Mukta Gupta, Sr. Adv. Ms. Rashmi Nandakumar, AOR Ms. Yashmita Pandey, Adv.

J U D G M E N T

VIPUL M. PANCHOLI, J.

1. This is an appeal against the final Judgment dated 07.08.2009 passed by the High Court of Judicature at Madras in Writ Appeal No. 797 of 2008 and the final Order dated 06.01.2011 passed by the High Court of Judicature at Madras in Review Application No. 129 of 2009 by which the High Court dismissed the challenge raised by the appellant against the Public Auction Notice issued by the respondent no. 2 on the ground that the sale pursuant to the above said notice has not been challenged by the appellant.

2. The factual matrix of the present case as per the appellant is that in 1972-73, late Ramaswamy Udayar successfully bid for arrack shops in Thevaiyar and Valikandapuram villages but later defaulted on payments, leading the District Collector, Perambalur, to obtain an ex-parte decree in 1987 for Rs. 56,170.20/-. Unaware of this, his widow (the appellant) and family faced recovery proceedings years later. After Ramaswamy's death in 1988, disputes arose among his legal heirs and while partition proceedings were pending, the authorities issued auction notices in 2005 to recover the alleged dues with interest. Karunanidhi, Ramaswamy's son and the appellant filed separate writ petitions before the High Court challenging these notices. Despite interim orders and partial deposits made as directed by the High Court, the authorities conducted the auction in July 2005 and sold the property to the respondent no. 4.

3. In the High Court, the Writ Appeals Nos. 797 and 992 of 2008, arising from Writ Petitions Nos. 25194 and 12933 of 2005, were dismissed by the impugned common judgment. The appellant challenged the auction-sale of properties under Patta Nos. 786 and 789, Mettupalayam South Village, Veppanthattai Taluk, Perambalur District, conducted by the revenue authorities under the Tamil Nadu Revenue Recovery Act, 1864 (hereinafter referred as "*the Revenue Recovery Act*"). The Court noted that while the appellant had deposited various amounts during the pendency of the Writ Petitions/Writ Appeals, the appellant had not filed any petition under Sections 37-A or 38 of the Revenue Recovery Act to set aside the sale within the prescribed 30-day period. The auction, held on 29.07.2005 and confirmed on 23.07.2008, could not be challenged belatedly, as more than 4 years had passed. Consequently, the Court dismissed the Writ Appeals, denied relief to set aside the sale and directed that any amounts deposited by the appellant be refunded within 15 days, with the appellant to notify the authorities of such deposits.

4. Thereafter, the High Court, in Review Application No. 129 of 2009, dismissed the review application filed by the appellant with respect to the Division Bench's judgment dated 07.08.2009 in Writ Appeal No. 797 of 2008, which had upheld the dismissal of Writ Petition No. 25194 of 2005. The original writ petition sought to quash the auction notice dated 28.06.2005 for properties in Patta Nos. 786 and 789, Mettupalayam South Village, Veppanthattai Taluk, Perambalur District. The Court noted that the auction took place on 29.07.2005, with the respondent no. 4 (the auction-purchaser) depositing the full amount the same day and the sale was confirmed on 23.07.2008. The appellant had not filed any application under Sections 37-A or 38 of the Revenue Recovery Act, within the 30-day statutory period to set aside the sale. *Vide* the impugned order, the Court held that the confirmation date does not extend the limitation period, found no error in the Division Bench's judgment and consequently dismissed the review application.

5. Aggrieved by the impugned judgment and order, the appellant has filed the present appeal.

6. Learned counsel for the appellant contended that the High Court erred in dismissing Writ Appeal and Review Application filed by the appellant without examining the legality of the Public Auction Sale Notice issued by the revenue authorities. It was argued that the auction conducted on 29.07.2005 was illegal, as it took place during the pendency of Writ Petition No. 25194 of 2005, despite an interim order staying confirmation of the sale, thereby rendering the filing of any application under Sections 37-A or 38 of the Revenue Recovery Act unnecessary. It was submitted that the appellant had already deposited a total of Rs. 3,41,900/- in compliance with various directions of the High Court, thereby satisfying the alleged dues.

7. It was further urged that the authorities improperly issued a second auction notice dated 28.06.2005 on the same demand while the earlier proceedings were still *sub judice*, in violation of procedural safeguards and principles of natural justice. It was also emphasized that the auction was conducted and later confirmed on 23.07.2008 in favor of the respondent No. 4, despite pending partition appeals, no prior default notice to the legal heirs and reliance on a 1987 ex-parte decree obtained without the knowledge of the appellant or her late husband.

8. Additionally, learned counsel for the appellant asserted that the arrears related to the deceased husband of the appellant and that no proper notice or account details were provided to his legal heirs. It is argued that the auction was also barred by limitation under Article 112 of the Limitation Act, 1963 and since the amount had already been determined

through an ex-parte civil decree in Original Suit No. 47 of 1986, recovery should have been executed under the Civil Procedure Code, 1908 (hereinafter referred as "*the CPC*"), not through revenue recovery proceedings.

9. *Per contra*, learned counsel for the respondent Nos. 1, 2 and 3 submitted that the appellant's husband, Ramasamy Udayar, who ran arrack and toddy shops during 1972-73, defaulted on payments, causing notional loss to the Government. Despite repeated notices, neither his widow nor children cleared the dues, prompting recovery proceedings and auction of the family's properties. The appellant's writ petition (Writ Petition No. 25194 of 2005), writ appeal (Writ Appeal No. 797 of 2008) and review application (Review Application No. 129 of 2009) were all dismissed by the High Court. It is contended that the High Court's orders were correct, that the appellant failed to invoke remedies under Sections 37-A or 38 of the Revenue Recovery Act and that the auction and its confirmation were validly conducted after due process.

10. It is further argued that the amount due was quantified by a 1987 *exparte* decree, the second auction notice dated 28.06.2005 was necessary due to increased dues and the appellant's disputes with other heirs caused delays. Since the property sale has been confirmed, the appeal deserves to be rejected.

11. Learned counsel for the respondent no. 4, submitted that the auction of the appellant's property took place validly on 29.07.2005, the respondent no. 4 (the auction-purchaser) deposited the full amount the same day and the sale was later confirmed on 23.07.2008 when no stay was in force. Since the appellant never filed an application to set aside the sale under Sections 37-A or 38 of the Revenue Recovery Act within the prescribed 30 days, the High Court rightly dismissed her writ petition and writ appeal for failure to exhaust statutory remedies.

12. It is further submitted that the auction and subsequent confirmation were conducted lawfully, refunds were ordered where appropriate and the appellant's challenge is belated and an abuse of process. It is also explained that, following the High Court's final orders in 2009, the sale certificate was issued, the property was registered in the name of the respondent no. 4 and subsequently, the property was sold to bona fide purchasers, making the appellant's claims infructuous.

13. Upon a careful examination of the rival submissions, the material on record and the applicable provisions of law, the principal issue for consideration is whether the appellant, having failed to invoke the statutory remedies available under Sections 37-A and 38 of the Revenue Recovery Act, can subsequently challenge the auction proceedings through writ jurisdiction under Article 226 of the Constitution of India.

14. Sections 37-A and 38 of the Revenue Recovery Act provide a complete mechanism for setting aside a sale of immovable property conducted under the Act - either by way of deposit of the due amount (Section 37-A) or by challenging material irregularity, mistake or fraud in the conduct of the sale (Section 38). Both provisions prescribe a limitation period of 30 days from the date of sale. This statutory framework is mandatory and self-contained, leaving little room for collateral challenges once the period expires.

15. In the present case, the auction sale took place on 29.07.2005 and the confirmation of sale was made on 23.07.2008. The appellant admittedly did not file any application before the competent authority within the 30-day limitation prescribed under Sections 37A or 38 of the Revenue Recovery Act. Therefore, the bar of limitation applies squarely and the High Court was correct in holding that belated interference with the sale, after more than four years, was impermissible.

16. The appellant has argued that the auction was conducted during the pendency of Writ Petition No. 25194 of 2005 and that the High Court's interim order staying the confirmation of sale rendered any statutory application unnecessary. This contention is misconceived. The record reveals that while the High Court had granted limited interim protection against confirmation of sale, there was no order staying the conduct of the auction itself. Consequently, the auction held on 29.07.2005 was not in violation of any subsisting judicial restraint. Moreover, the stay on confirmation does not suspend the statutory obligation to seek redress within 30 days as per Sections 37-A or 38 of the Revenue Recovery Act. The appellant's failure to avail herself of the specific statutory mechanism cannot be excused merely because parallel proceedings were pending before the High Court.

17. In ***Rajasthan Housing Board & Others v. Krishna Kumari, (2005) 13 SCC 151***, this Court, while relying on the case of ***State of M.P. v. M.V. Vyavsaya & Co., (1997) 1 SCC 156***, cautioned against interference with lawful revenue recovery proceedings through interim orders, observing that courts should not deprive the State of legitimate revenues unless a clear case of illegality is made out. The Court emphasized that interim protection cannot be used to frustrate statutory procedures for recovery. The relevant paragraph reads as under:

"6. In State of M.P. v. M.V. Vyavsaya & Co. [(1997) 1 SCC 156] this Court in paras 15 and 19 observed as follows: (SCC pp. 162 & 164)

"15. … This Court has also repeatedly emphasised the inadvisability of making interim orders which have the effect of depriving the State (the people of the State) of the revenues legitimately due to it. The court should not take upon itself the responsibility of staying the recovery of amounts due to the State unless a clear case of illegality is made out and the balance of convenience is duly considered. Otherwise, the odium of unlawfully depriving the State/the people of the monies lawfully due to it/them would lie upon the court."

18. In the present case, the appellant relied upon deposits totaling approximately Rs. 3,41,900/- made pursuant to the interim orders of the High Court to contend that the alleged dues stood substantially satisfied. However, these payments were made pursuant to interim directions of the High Court and not as part of any statutory application under Section 37-A of the Revenue Recovery Act. The law under Section 37-A mandates both a deposit and a formal application to the Collector within 30 days of sale, which was admittedly not done. Therefore, these payments, though made in good faith, cannot retrospectively validate non-compliance with the statutory requirement.

19. The contention that the 1987 *ex-parte* decree was obtained without notice and that recovery proceedings were barred by limitation or should have proceeded under the CPC lacks merit. Once the arrears were certified as recoverable under the provisions of the Revenue Recovery Act, the authorities were empowered to proceed with recovery through revenue processes. The appellant did not take timely steps to set aside the decree or challenge its enforceability. Hence, the decree and consequent recovery action attained finality.

20. This Court in the case of ***Valji Khimji and Company v. Official Liquidator of Hindustan Nitro Product (Gujarat) Limited and Others, (2008) 9 SCC 299***, held that once a sale is confirmed by the competent authority, rights accrue in favour of the auctionpurchaser which cannot be extinguished except in cases of proven fraud or substantial irregularity. The relevant paragraph reads as under:

"30. In the first case mentioned above i.e. where the auction is not subject to confirmation by any authority, the auction is complete on the fall of the hammer, and certain rights accrue in favour of the auction-purchaser. However, where the auction is subject to subsequent confirmation by some authority (under a statute or terms of the auction) the auction is not complete and no rights accrue until the sale is confirmed by the said authority. Once, however, the sale is confirmed by that authority, certain rights accrue in favour of the auction-purchaser, and these rights cannot be extinguished except in exceptional cases such as fraud."

21. In the present case, the auction and its subsequent confirmation have not been shown to suffer from any material irregularity, mistake or fraud as contemplated under Section 38 of the Revenue Recovery Act. The respondent no. 4 (the auction-purchaser) paid the full purchase amount on the day of sale and the sale was confirmed only after due procedure and in the absence of any valid challenge. The issuance of the sale certificate and registration of the property in the purchaser's name, followed by subsequent transfers to bona fide purchasers, confer finality on the transaction.

22. The Division Bench of the High Court, in the impugned judgment, rightly concluded that the appellant's failure to act under Sections 37-A or 38 of the Revenue Recovery Act within the prescribed time barred any later challenge. The Review Bench of the High Court, *vide* the impugned order, correctly held that there was no error apparent on the face of record warranting review. The findings were consistent with the statutory scheme and supported by application of judicial mind.

23. Furthermore, it is well settled that a review proceeding cannot be treated as an appeal in disguise. As held in ***Lily Thomas v. Union of India, (2000) 6 SCC 224*** and ***Parsion Devi & Others v. Sumitri Devi & Others, (1997) 8 SCC 715***, a review can be entertained only when there is an error apparent on the face of the record. The findings of the High Court are based on a comprehensive appreciation of facts and law and no such error has been demonstrated by the appellant.

24. There is also no material to suggest that the High Court exceeded its jurisdiction or disregarded any principle of natural justice. The appellant was afforded multiple opportunities to present her case, first in the writ petition, then in the writ appeal, and finally in review, each of which was adjudicated on merits. The concurrent findings of the High Court, therefore, do not disclose any perversity or manifest error warranting interference.

25. In light of the above detailed analysis, it is evident that:

A. The appellant failed to invoke the statutory remedies under Sections 37-A or 38 of the Revenue Recovery Act within the prescribed time;

B. The auction held on 29.07.2005 and confirmed on 23.07.2008 was conducted in accordance with law;

C. The interim orders of the High Court did not preclude the appellant from pursuing the statutory remedy; and

D. The High Court's concurrent findings in the Writ Appeal and Review Application are well-founded and do not suffer from any legal infirmity.

26. Accordingly, the impugned judgment dated 07.08.2009 and the impugned order dated 06.01.2011 passed by the High Court of Judicature at Madras are upheld and the present appeal is hereby dismissed.

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