

IN THE HIGH COURT OF SINDH, KARACHI

Present:

Mr. Justice Muhammad Iqbal Kalhoro

Mr. Justice Syed Fiaz ul Hassan Shah

First Appeal No.127 of 2015

[Zulfiqar Mateen v. M/s. SME Bank Limited and others]

1.For hg of CMA No.200/2016

2.For hg of main case

3.For hg of CMA No.6506/2015

Date of hearing:-14.10.2025.

Mr. Abdul Baqi Lone, advocate for appellant.

None present for respondents.

J U D G M E N T

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MUHAMMAD IQBAL KALHORO J: Appellant filed an application under Order 21 Rule 89 CPC in Suit No.535/2009 and Execution No.67/2010 stating that he was ready to pay the decretal amount with 5% extra to the auction purchaser. This application has been dismissed by impugned order on the ground that throughout proceedings, the appellant who claims to be purported owner of the property did not appear in the Court and more so his status as a customer is under the cloud, therefore, his application was not maintainable.

2. We have heard learned counsel for appellant and have gone through the impugned order. The facts of the case show that the judgment debtor had availed a financial facility from respondent bank which he failed to account for and defaulted, hence the bank filed the suit for recovery of the amount, which was decreed. In execution proceedings, the judgment debtor failed to deposit the decretal amount; hence, the mortgaged property was ordered to be auctioned. The auction was held and it was confirmed. Until then the appellant failed to put his appearance in the Court and did not claim to be the owner of the property. On the contrary, the record shows that the judgment debtor had deposited the original

documents of the property in his name with the bank at the time of availing the financial facility and there was nothing on the record that the property had changed hands, meanwhile. The learned Banking Court has observed that once sale is confirmed, the vires of Section 65 of CPC would come into play which provide that ownership rights in immovable property will be deemed to have vested in succeeding bidder. Learned counsel for appellant has failed to point out any illegality or error in the impugned order to justify its reversal in this appeal. Consequently, we find this appeal to be without any merit, and accordingly dismiss it along with pending applications.

The appeal is accordingly disposed of in above terms alongwith pending applications.

JUDGE

JUDGE

HANIF