

**IN THE HIGH COURT OF SINDH,
AT KARACHI**

C.P No. D-3960 of 2021

Present:

Ahmed Ali M. Shaikh, CJ
and Yousuf Ali Sayeed, J

Petitioner : Syed Asif Shah, through Tahir Hussain Qureshi, Advocate.

Respondent Nos.2-6 : Ahmed Asif Siddiqui and 5 others, through Muhammad Khalid, Advocate.

Respondent Nos.7-12 : Mst. Iqbal Begum and 5 others through Nusrat Sultan, Advocate.

Date of Hearing & Short Order : 17.09.2021

ORDER

Yousuf Ali Sayeed, J - The Petitioner had apparently offered a bid in respect of House No. A-310/13, Gulshan-e-Iqbal, Karachi (the “**Property**”), which had been put to auction by the IXth Senior Civil Judge, Karachi (East) in Execution No. 20 of 2016 emanating from Civil Suit No.1383 of 2012. The Petitioner was declared the highest bidder, however the auction proceedings were set-aside as a consequence of an Application under Order 21 Rule 88 & 89 CPC filed by the one of the parties to the underlying Suit being allowed vide an Order dated 23.01.2021 with the Nazir being directed to hold a fresh public auction as per law and procedure wherein all the legal heirs of the deceased as well as the Petitioner could participate. Being aggrieved, the Petitioner preferred Civil Revision No.43 of 2021 before District Judge Karachi (East), which was dismissed vide Order dated 25.05.2021, with it being held that in the absence of confirmation/acceptance of his bid, the Petitioner had no *locus standi* to challenge the order of the executing Court. It is in this backdrop that the Petitioner has invoked the writ jurisdiction of this Court under Article 199 of the Constitution, impugning the propriety of the aforementioned Orders of the fora below.

2. Learned counsel for the Petitioner sought to emphasise that the Petitioner had been declared the highest bidder and argued that he was thus entitled to its acceptance and confirmation of the sale in his favour. He argued that the executing and revisional Courts had not properly considered this aspect and had also failed to appreciate that the Petitioner had been prejudiced though having sold out another immovable property for purpose of raising the requisite funds for participating in the auction. However, on query posed as to the legal right, if any, that had crystalized in favour of the Petitioner upon the submissions of his bid, learned counsel was at a loss to advance any cogent argument or cite any precedent to support his plea as to the Petitioner's professed entitlement for confirmation of the sale.

3. Indeed, the submissions advanced on behalf of the Petitioner completely overlook the settled legal position that a bid made at auction is merely in the nature of an offer, which does not of itself give rise to any rights, as such offer is always subject to acceptance by the Court and does not mature into a contract till that time. The auctioneer's declaration that a particular bid is the highest merely gives rise to a legitimate expectation of its acceptance as against other bidders but does not of itself constitute a sale and certainly does not give rise to any enforceable legal right. That arises only when the bid is accepted and the full purchase money is deposited, but that too subject to the provisions of Order 21, Rule 89, 90 and 91 CPC, with the property only finally coming to vest in the purchaser when the sale is confirmed. For a reiteration of the law on the subject, one need look no further than the judgment of the Honourable Supreme Court in the case reported as Muhammad Jawed v. First Women Bank Ltd. and others 2020 SCMR 2134.

4. Considering the facts underpinning the matter at hand, it is manifest that no right ever accrued in favour of the Petitioner and there is no error or illegality afflicting the underlying Orders of the execution or revisional Courts.

5. Ergo, we had dismissed the Petition through a short Order made in Court upon culmination of the hearing on 17.09.2021.

JUDGE

CHIEF JUSTICE

Karachi.
Dated: