

IN THE HIGH COURT OF KARNATAKA,
CIRCUIT BENCH AT GULBARGA

DATED THIS THE 31ST DAY OF JANUARY 2013

B E F O R E

THE HON'BLE MR.JUSTICE N.KUMAR

WRIT PETITON NO.100203/2013 (GM-CPC)

BETWEEN:

Dawalsab S/o Alisab,
Age: 50 years,
Occ: Agriculture,
R/o Yadahalli, Taluka Surpur
Dist. Yadgir.

... PETITIONER

(By Sri: Deepak V.Barad, Advocate for
Sri Veeresh B.Patil, Advocate)

AND

1. The Canara Bank, Surpur,
Represented by its Manager,
Dist. Yadgir.
2. Alla Manikyalrao
S/o Bangarayya,
Age: 58 years,
Occ: Agril., R/o Malgatti village,
Taluka – Surpur,
District Yadgir.

... RESPONDENTS

This Writ Petition is filed under Article 226 and 227 of the Constitution of India praying to issue a Writ of certiorari whereby quashing the impugned order dated 06.11.2012 passed in Execution Petition No. 14/2008 by the Civil Judge (Jr.Dn) At Surpur, as at Annexure-E to the Writ Petition.

This petition is coming on for Orders this day, this Court made the following

ORDER

This Writ Petition is filed challenging the order passed by the trial court refusing to extend time prescribed for payment of balance consideration amount in a public auction.

2. The petitioner was the successful bidder. His bid for sum of Rs.19.17 lakh. He paid 25% of the bid amount. The balance amount is to be paid within 15 days. He filed an application under section 148 of the Code of Civil Procedure for extension of time. The trial court declined to extend the time on the ground that once amount is not paid within 15 days, the property

shall be brought to sale again. Section 148 has no application. Accordingly it dismissed the said application.

3. Aggrieved by the said order, this Writ Petition is filed.

4. Section 148 of Code of Civil Procedure has no application to a case arising under order XXI Rule 85. If the successful bidder deposits 25% of the amount, the law contemplates the balance amount to be paid within 15 days. The law also provides in the even of default, the property shall be brought to sale again. Therefore, question of extending time did not arise. The trial court justified in rejecting the application. No merits. Accordingly, the Writ Petition is dismissed.

Sd/-
JUDGE

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