



Bank's Lack of Transparency in Auction Proceedings Leads to Nullification of Sale

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When a bank fails to disclose existing restrictions or claims over a property, it not only misleads the potential buyers but also shakes public trust in the fairness of such sales. The Supreme Court's recent decision has brought to light the crucial importance of the honesty and transparency in the bank-led property auctions. The ruling serves as a reminder that the institutions handling public money shall act responsibly, ensuring that every auction is conducted with full disclosure and integrity.

In a significant pronouncement upholding the doctrine of transparency in judicial and statutory auctions, the Supreme Court of India in "*Delhi Development Authority versus Corporation Bank and Others*", invalidated the e-auction conducted by the Debts Recovery Tribunal on the ground that the bank had failed to disclose subsisting encumbrances over the subject property. The Hon'ble Court observed that lending institutions are under a legal obligation to exercise due diligence and make full and fair disclosure of all material encumbrances affecting the title of the auctioned asset. Such non-disclosure, the Hon'ble Court held, vitiates the sanctity of the sale process, misleads bona fide purchasers, and constitutes a breach of procedural propriety. The ruling thus, reaffirms the judiciary's commitment to ensuring fairness, transparency, and accountability in the conduct of the public auctions.

The case before the Hon'ble Supreme Court emanated from the Delhi High Court's dismissal of DDA's Writ Petition challenging the validity of an E-auction conducted by the Debts Recovery Tribunal. The Appeal raised significant questions touching upon the fiduciary obligations of public authorities, the duty of financial institutions to ensure lawful lending, and the rights of bona fide auction purchasers vis-à-vis procedural irregularities. The interplay between the DDA's prerogatives as lessor, the Bank's diligence obligations, and the statutory procedures under the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 was central to the issue.

The factual circumstances revealed that the DDA had allotted the subject property to a club on leasehold terms, explicitly prohibiting any mortgage without prior written consent of the Lieutenant Governor of Delhi. Despite this condition, the club mortgaged the property to the Corporation Bank without obtaining due approval. Upon default in repayment, DRT proceedings were initiated, culminating in an E-auction conducted without disclosure of DDA's encumbrance or its rights of pre-emption and recovery of unearned increase. The Recovery Officer rejected DDA's objections and proceeded with the auction, resulting in the property being sold to a third-party purchaser.

The Hon'ble Supreme Court's consideration centred on whether the E-auction was conducted in compliance with statutory and contractual obligations. It was observed that the Bank failed to exercise due diligence in verifying the lease conditions and that the Recovery Officer did not comply with Rule 53 of the Second Schedule to the Income-tax Act, 1961, which mandates disclosure of material facts in sale proclamations. The omission to notify DDA's rights rendered the auction process defective, thereby undermining the sanctity of the sale and violating the principles of fair procedure under the governing statutes.

In view of these findings, the Hon'ble Court held that the Hon'ble High Court erred in rejecting DDA's Writ Petition as barred by principles akin to Section 11 of the CPC, since the earlier petition

¹ MANU/SC/1337/2025



had been withdrawn based on the Bank's undertaking and was not decided on merits. The DDA thus had a fresh cause of action arising from the subsequent illegality in the auction proceedings. The judgment reaffirmed that public property cannot be alienated in violation of statutory conditions and that procedural fairness is indispensable in recovery and auction processes, especially where public and third-party interests intersect.

The Ld. Senior Counsel for the DDA submitted that under the Lease Deed, prior written consent of the Lieutenant Governor was a condition precedent for creation of any mortgage or charge, which was absent in the mortgage to the Bank. The DDA, having notified the Bank of its claim towards unearned increase and ground rent through affidavit before the Recovery Officer, asserted that the auction contravened the undertaking recorded by the Hon'ble Delhi High Court. It was further alleged that the Bank unlawfully advanced Rs.60,00,000/- despite a limited NOC for Rs.35,00,000/-, with full knowledge of the leasehold nature of the property. Thus, the sale was void ab initio, warranting restitution of the property to the DDA and recovery of statutory dues from the Bank.

The Ld. Counsel for the Bank submitted that the Bank intimated the DDA regarding the mortgage of the subject property and deposit of the perpetual lease deed, yet the DDA remained inactive until its first appearance before the Recovery Officer. It was contended that the E-auction pursuant to the notice was conducted on an "as is where is" basis, affording the DDA an opportunity to exercise its pre-emptive right to purchase and recover dues, which it failed to do. The Bank further asserted that an in-principle NOC had been issued by the DDA, evidencing its knowledge of the Bank's lien, and argued that the present appeal constitutes an abuse of process and is barred by the doctrine of estoppel.

The Ld. Senior Counsel for the Auction Purchaser contended that under Rules 16 and 18, it was the duty of the Recovery Officer and parties before the DRT to resolve all issues materially impacting the property's value or reserve price prior to issuing the sale proclamation. It was argued that the sale contravened these provisions, as the proclamation failed to quantify DDA's claim or reflect the true market value. The DDA, therefore, could not subsequently demand unearned increase beyond the auction price. Accordingly, it was prayed that the E-auction be set aside and the Bank be directed to refund Rs.1,68,28,688/- along with 15% interest.

The Hon'ble Supreme Court, while adjudicating upon the matter, referred to the Judgment of the Constitutional Bench in "*Daryao & Others versus State of UP and Others*"² wherein the Hon'ble Court examined the applicability of the doctrine of *res judicata* in writ proceedings and the relevant paragraph was extracted by another Constitutional Bench in "*Gulabchand Chhotalal Parikh versus State of Gujarat*"³ as follows:

"53. In *Daryao* Case this Court had again dealt with the question of the applicability of the principle of *res judicata* in writ proceedings. The matter was going through very exhaustively and the final conclusions are to be found at p. 592. We may summarise them thus:

1. If a petition under Article 226 is considered on the merits as a contested matter and is dismissed, the decision would continue to bind the parties unless it is otherwise modified or reversed by appeal or other appropriate proceedings permissible under the Constitution.

² AIR 1961 SC 1457

³ AIR 1965 SC 1153



2. It would not be open to a party to ignore the said judgment and move this Court under Article 32 by an original petition made on the same facts and for obtaining the same or similar orders or writs.

3. If the petition under Article 226 in a High Court is dismissed not on the merits but because of the laches of the party applying for the writ or because it is held that the party had an alternative remedy available to it, the dismissal of the writ petition would not constitute a bar to a subsequent petition under Article 32.

4. Such a dismissal may however constitute a bar to a subsequent application under Article 32 where and if the facts thus found by the High Court be themselves relevant even under Article 32."

In light of the aforementioned judgment, the Hon'ble Supreme Court observed that doctrine of *res judicata* bars re-litigation of matters finally adjudicated. However, since DDA's earlier Writ was withdrawn based on the Bank's undertaking to conduct the auction per lease conditions and not decided on merits, the subsequent auction held in breach of those terms gave rise to a fresh cause of action. Hence, the principles analogous to Section 11 of the Code of Civil Procedure were inapplicable, and the High Court erred in dismissing the Writ without examining the auction's validity, which was conducted contrary to the lease deed and statutory provisions.

The Hon'ble Court also noted regarding the Auction Purchaser that the doctrine of restitution, as affirmed in "*Fibrosa Spolka Akcyjna v. Fairbairn Lawson Combe Barbour Ltd.*"⁴ and endorsed by the Hon'ble Court in "*Nagpur Golden Transport Co. v. Nath Traders*"⁵, mandates that no party be unjustly enriched at another's expense. Rooted in equity and conscience, restitution operates beyond contractual or tortious frameworks to restore an innocent party to its original position. This inherent judicial power is invoked wherever the demands of justice so require.

Consequently, the Hon'ble Supreme Court held that the order of the Hon'ble Delhi High Court, the E-auction Notice, the Auction, and the subsequent sale confirmation and certificates issued to the Auction Purchaser are quashed. Further, the Hon'ble Court directed the Bank to refund the entire deposited amount to the Auction Purchaser, alongwith 9% interest per annum from the date of deposit until the repayment within one month. The Appeal was thus, allowed by the Hon'ble Court.

Thus, it may be noted that the Hon'ble Court underscored that the very foundation of the bank-led auctions rests on transparency, due diligence, and fairness. When a lending institution conceals or neglects to disclose existing encumbrances, it not only defeats the sanctity of the sale process but also erodes confidence in the integrity of judicial and statutory mechanisms. The nullification of the E-auction in this case serves as a stern reminder that banks, as trustees of public funds, must act with utmost accountability and openness in every stage of recovery and disposal of assets. Any deviation from this duty of candour will not only vitiate the proceedings but also invite judicial intervention to restore fairness and protect the rights of bona fide parties.

⁴ 1943 AC 32: (1942) 2 All ER 122 (HL)

⁵ (2012) 1 SCC 555