

Alisha Khan vs Indian Bank (Allahabad Bank) on 13 December, 2021

Bench: M.R. Shah, B.V. Nagarathna

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL Nos. _____ OF 2021
(@ SLP (C) Nos. 15959-15960/2021)

ALISHA KHAN

APPELLANT

VERSUS

INDIAN BANK (ALLAHABAD BANK) & ORS.

RESPONDENT

O R D E R

Leave granted.

Learned counsel appearing on behalf of the appellant was arguing from the Car and there was poor connectivity. When we asked him from where he is arguing, he told that he is on the road. We refuse to hear the counsel, who is arguing from the Car. Even otherwise, due to poor connectivity we are not able to hear him. However, in the interest of justice, we have considered the matter on merits and heard learned counsel appearing on behalf of the respondents.

Having gone through the impugned judgment and orders passed by the High Court, we are of the opinion that the High Court ought to have allowed the refund of the amount deposited being 25% of the auction sale consideration. Considering the fact that though initially the appellant deposited 25% of the auction sale consideration, however, subsequently she could not deposit balance 75% due to COVID-19 pandemic. It is contd..

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required to be noted that subsequently the fresh auction has taken place and the property has been sold. It is not the case of the respondents that in the subsequent sale, lesser amount is received. Thus, as such, there is no loss caused to the respondents.

Considering the aforesaid facts and circumstances, we allow these appeals and set aside the order of forfeiture of 25% of the amount of auction sale consideration and direct the respondent Bank to refund/return the amount earlier deposited by the appellant, deposited as the part auction sale

consideration (minus 50,000/- towards the expenditure which were required to be incurred by the respondent Bank for conducting the fresh auction) within a period of four weeks from today.

The appeals are accordingly allowed. No cost.

.....J. [M.R. SHAH]J. [B.V. NAGARATHNA]
NEW DELHI DECEMBER 13, 2021 ITEM NO.38 Court 13 (Video Conferencing) SECTION IV-C S U
P R E M E C O U R T O F I N D I A RECORD OF PROCEEDINGS Petition for Special Leave to
Appeal (C) No(s). 15959-15960/2021 (Arising out of impugned final judgment and order dated
22-10-2020 in WP No. 15336/2020 and dated 18-06-2021 in RP No. 251/2021 passed by the High
Court Of M.P. Principal Seat at Jabalpur) ALISHA KHAN Petitioner(s) VERSUS INDIAN BANK
(ALLAHABAD BANK) & ORS. Respondent(s) (FOR ADMISSION and I.R. and IA
No.129121/2021-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA
No.129123/2021-EXEMPTION FROM FILING O.T.) Date : 13-12-2021 These petitions were called
on for hearing today. CORAM :

HON'BLE MR. JUSTICE M.R. SHAH HON'BLE MRS. JUSTICE B.V. NAGARATHNA
For Petitioner(s) Mr. Mithan Lal Gupta, Adv.

Mr. Vipin Gupta, Adv.

Mr. Mohan Lal Sharma, AOR For Respondent(s) Mr. Ashish Rana, AOR UPON
hearing the counsel the Court made the following O R D E R Leave granted.

The appeals are allowed in terms of the signed order.

Pending application(s) shall stand disposed of.

(NEETU SACHDEVA)
COURT MASTER (SH)

(NISHA TRIPATHI)
BRANCH OFFICER

(signed order is placed on the file)