

SUPREME COURT OF INDIA

Ratan Bapu Patil (dead) by Lrs.

Vs.

Dodhu

C.A.No.2372 of 2000

(Ashok Bhan and S. H. Kapadia JJ.)

22.07.2004

ORDER

The Order of the Court is as follows

1. The agricultural land situated at Tarsod in District and Taluka Jalgaoh bearing plot No. 242, admeasuring 1 Hectare and 37 Acres was purchased by the appellant for a sum of Rs. 1,201/- in a public auction. The sale was confirmed on 17th April, 1968.
2. Regular Civil Suit No. 205 of 1968 was filed by the plaintiff-respondent (hereinafter referred to as 'the Respondent') for setting aside the sale deed in which interim stay was granted for further proceedings and grant of sale certificate to the appellant. The suit was ultimately dismissed when the second regular Civil Suit No. 984 of 1972 was dismissed on 27th June, 1978.
3. The appellant applied for issuance of the sale certificate in the year 1982 which was issued to him on 3rd May, 1985. After getting the sale certificate, the appellant moved an application on 24th July, 1985 for possession under Order 21, Rule 95 of the Code of Civil Procedure.
4. The application was dismissed by the Civil Judge, Senior Division, Jalgaon on the ground that the application under Order 21 Rule 95 of the Code of Civil Procedure was barred under Article 134 of the Indian Limitation Act as the same has not been preferred within a period of one year from the date when the sale became absolute.
5. Appellant, being aggrieved, filed a Civil Revision Application in the High Court. The High Court has dismissed the revision relying upon the judgment in this Court in Pattam Khader Khan vs. Pattam Sardar Khan and another, 0.
6. We have gone through the judgment rendered in Pattam Khader Khan (supra). It has been held in the aforesaid judgment that title of the court auction-purchaser becomes complete on the confirmation of the sale under Order 21 Rule 92 and by virtue of the thrust of Section 65

CPC the property vests in the purchaser from the date of the sale. Issuance of sale certificate is only the evidence of the title which can always be supplied later on to satisfy the requirements of Order 21 Rule 95. The limitation starts running under Article 134 of the Limitation Act from the date of confirmation of the sale deed. The point involved in the present case is squarely covered by the rule laid down of this Court in Pattam Khader Khan (supra). In the present case the sale was confirmed on 17.4.1968 and the limitation of one year provided under Article 134 would start running from the said date. The present application having been filed in the year 1985 was clearly barred by time.

7. For the reasons stated above, we do not find any merit in this appeal and dismiss the same with no order as to costs.