

Banking - Auction - Mortgage - Receiver has responsibility to maintain the property in good condition and prevent its deterioration - Creditor cannot later claim that the property lost value while in their custody, will be accountable for any loss in property value.

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banking - auction - Mortgaged assets - When collaterals and securities provided by borrowers are available to the creditors for sale and transfer to recover outstanding dues, creditors have the responsibility to get a fair and market value for the same - It is quite a common practice to claim that the value of the property has been depressed because the Bank's attachment/[lien](#) exists over the property - However, this kind of argument does not appeal, as the consideration is to be paid by the purchaser as per market rates, to whosoever is entitled to receive it i.e., either the original [owner](#) or the creditor. [Para 17]

Banking - Auction - Mortgaged assets - Receiver - Incumbent on all Receivers of immovable property/security to maintain them in good condition and not to allow the property to waste - Creditor cannot later on claim that the property under its custody had become dilapidated and therefore, cannot command the market value - Creditor would be responsible for the loss of such value and such practices that lead to distress sales below par have to be completed rooted out not just discouraged. [Para 17]

Banking - Auction - Mortgaged assets - While the attempt of the banks and financial institutions to minimize their losses makes good business sense, there cannot be a free run for them at the cost of the borrowers who have mortgaged to them or furnished valuable property as security to assure repayment, which are worth multiple times the value of the [loan](#) - Reasonable, to expect the Banks such as the respondent, to also respect the right of the borrowers to maximize their profits from the sale of collaterals/securities by the banks - Where, Banks seek to sell the immovable properties that are provided as security including through [mortgage](#), it is incumbent on them to be earnest in their efforts so that the valuable security is not disposed of to the prejudice of the borrower. [Para 15, 16, 17]

Banking - Auction - Mortgaged assets - Executing Court ought not to have readily agreed to the repeated downward [revision](#) of the reserved price - Executing Court must always exercise caution and be circumspect while dealing with such applications, bearing in mind the consequences of the action taken, on the interests of the borrowers, and to see that these are not prejudiced - Prime commercial property originally worth more than Rs.24 crores has been purportedly sold for almost half the price with no one responsible - This kind of situation has to be avoided for which the Executing Court [will](#) have to maintain a vigilant eye on the auction proceedings.[Para 23]

Property worth 24 crores. Reserve price brought down drastically in a few months . Outstanding amount owed by the petitioner to the bank for a mortgaged property auctioned was more than Rs. 15 crores as of September 30, 2020. Even if the property had been sold for a price of Rs. 16 crores, the bank would have recovered their outstanding dues, and the petitioner would have had around Rs. 75 lakhs. However, the bank only received Rs. 13,75,00,000 from the sale, and an outstanding amount of almost Rs. 2.5 crores remains. The court has two options available, either to direct the purchaser to pay a sum of Rs. 16 crores towards the sale purchase, or to direct the Executing Court to record a satisfaction of the preliminary decree and the final decree for Rs. 13,75,00,000 to issue the Sale Certificate to the auction purchaser. The court has adopted the second course of action and disposed of the petition while directing the executing court to record satisfaction of the preliminary decree and the final decree, issuing the Sale Certificate recording that no further dues against this loan remain outstanding and payable by the petitioner to the respondent.



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