Dhanji Ramji Chheda & Anr. / mortgagee bank v. Tax Recovery Officer-II, Hyderabad & Ors.

W.P. Nos. 15388 and 15449/2000

W.P. Nos. 15388 and 15449/2000 (Andhra Pradesh High Court, 2005-12-08) | 2005-12-08

Auction notice quashed for failure to decide the bank's objections; borrower's writ dismissed.

Andhra Pradesh High Court | Division Bench at Hyderabad | Bilal Nazki | S. Ananda Reddy

Assessment years: Not specified in order text

01 FACTS OF THE CASE

The common order decided W. P.15449/2000 by a bank and W. P.15388/2000 by Dhanji Ramji Chheda concerning the same tax-recovery auction. The bank asserted a mortgage and a loan advanced on 1 July 1996, pending debt-recovery proceedings and an injunction against alienation. Its objections to tax attachment had not been decided before the 6 August 2000 auction notice.

Source: PDF pp.1–3

02 DISCUSSION BY THE HON'BLE COURT

Merely acknowledging the mortgage in the sale notice did not decide the bank's objections. The Court considered it premature to determine whether the mortgaged property could be attached and sold for income-tax arrears before the Tax Recovery Officer addressed those objections.

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03 JUDICIAL DECISION

The auction notice was set aside and the bank's writ allowed. The officer was directed to consider its objections after notice and pass appropriate orders within two weeks of receiving a copy. The borrower's writ was dismissed because he was admittedly in default to both bank and Revenue; no further order was needed after the auction notice had been quashed.

Source: PDF p.4

04 OUTCOME / IN WHOSE FAVOUR

The bank secured procedural reconsideration, not a final declaration of priority or permanent immunity from tax sale. The two writs had different formal outcomes. There was no order as to costs.

Source: PDF p.4

05 EXPERT COMMENTS

AKHB Expert Comments — editorial analysis, distinct from the Court's findings.

Acknowledgment is not adjudication: The sale notice's reference to the mortgage showed awareness of the bank's claim, but supplied no reasoned answer to it. The defect was the absence of a decision on objections, making notice and a substantive response the focus of the remand. (PDF p.3)

Priority remained an open question: The Court expressly avoided deciding whether Revenue could attach and sell the mortgaged asset at this stage. The order cannot establish a universal priority for banks over tax claims; it required the recovery authority first to address the identified interest according to law. (PDF pp.3–4)

Do not assign the bank's success to the borrower's writ: Quashing the common auction notice affected the proposed sale, but the borrower's own petition was dismissed. Preserving those separate dispositions avoids turning an incidental practical benefit into a judicial acceptance of the borrower's grounds. (PDF p.4)

Source: PDF p.3

SOURCE & VERIFICATION

Original High Court judgment PDF — AKHB source repository

Complete 4-page original reviewed; source bytes verified.

Full original and all five panels re-reviewed on 21 October 2026.

Open cited source rendition

Complete original source and all five note panels checked; original docket identities preserved.

STATUTORY SCOPE

Current law and subsequent treatment not independently verified.

LATER TREATMENT

Source checked 2026-10-21. Subsequent proceedings and current judicial treatment have not been independently verified.

AI DISCLOSURE

AI-assisted research checked against the identified source. Extraction, interpretation or omission errors remain possible. Source review does not mean independent approval by a practising professional. Verify every material statement against the complete original judgment.

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