

Delhi Development Authority v. Corporation Bank & Ors.

Civil Appeal No. 11269 of 2016

[2025] 9 S.C.R. 1559 : 2025 INSC 1161 | 2025-09-25

Whether the DRT auction and sale of DDA leasehold property could stand despite failure to ascertain and disclose material lease restrictions and DDA's unearned-increase claim, whether the withdrawn earlier writ petition barred DDA's later challenge, and what restitution was due to the good-faith auction purchaser.

Second Schedule rule 53

Two-judge bench | Sanjay Kumar, J. | Alok Aradhe, J.

Assessment years: See the source-scope notes; no year inferred.

01 FACTS OF THE CASE

DDA allotted a Jasola plot in New Delhi to Sarita Vihar Club on leasehold terms for a recreational and sports club. Its 22 February 2002 no-objection communication permitted the club to apply for finance towards the premium, subject to a later mortgage permission after execution and registration of the lease. The perpetual lease executed on 28 January 2005 required prior written consent of the Lieutenant Governor to mortgage or charge the plot and protected DDA's rights relating to unearned increase and pre-emption. The club nevertheless mortgaged the plot to Corporation Bank, deposited the original lease deed and later defaulted on the bank loan.

The Bank obtained a DRT recovery certificate dated 27 August 2010 for Rs 86,46,790.37. DDA was not impleaded in the Bank's section 19 recovery proceedings. It objected before the Recovery Officer that mortgage permission had not been granted and that its lease rights had to be protected. Its objections and initial appeal failed. DDA then withdrew its first writ petition on 5 November 2012 on the Bank's recorded undertaking that the auction would respect the lease terms. The auction was held on 9 November 2012: M/s Jay Bharat Commercial Enterprises Pvt. Ltd. bid Rs 13.15 crore against a reserve price of Rs 8.85 crore. The sale was confirmed on 8 July 2013 and a sale certificate issued on 12 July 2013.

DDA's later writ petition challenging the auction was dismissed on 11 August 2014 under principles analogous to res judicata. That dismissal was the subject of this appeal. The auction purchaser also sought to undo the sale and recover the sum retained by the Bank with interest; it was not defending the defective sale against DDA. Paragraph 17 records an interim release of Rs 12,26,42,478 to the purchaser. The purchaser's paragraph 21 demand for a retained Rs 1,68,28,488 and 15% interest was a submission, not the ultimate monetary award.

Source: [reported rendition / paragraphs 1-17 / PDF pages 5, 6, 7, 8, 9, 10 / judgment](#); [reported rendition / paragraphs 21 / PDF pages 11 / auction purchaser submission](#); [reported rendition / paragraphs 26 / PDF pages 13 / judgment](#); [official signed judgment / paragraphs 3-17 / PDF pages 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 / judgment](#); [official signed judgment / paragraphs 21 / PDF pages 14, 15 / auction purchaser submission](#)

02 DISCUSSION BY THE HON'BLE COURT

Section 29 of the 1993 recovery statute makes the Second and Third Schedules to the Income-tax Act and the 1962 Certificate Proceedings Rules applicable, as far as possible and with necessary modifications, to bank debts. Under rule 53 of the Second Schedule, the sale proclamation must fairly and accurately disclose the property, relevant revenue assessment, recovery amount and other matters material to a purchaser's appraisal of its nature and value. Rule 16 of the 1962 Rules enables the Recovery Officer to summon and examine persons and require relevant documents when settling the proclamation (paragraphs 23-25). These are different rules in different instruments.

The Bank knew that the plot was leasehold and subject to DDA's rights. Yet DDA had not been joined in the recovery proceedings. After rejecting DDA's objection, the Recovery Officer issued the proclamation without requiring DDA to quantify, or otherwise ascertaining, the unearned-increase claim. The e-auction notice did not disclose that encumbrance. The Bank also failed to disclose the lease terms, notwithstanding its undertaking recorded by the High Court. The Court held the notice contrary to rule 53 and rule 16 and found the proclamation, confirmation and sale certificate unsustainable (paragraphs 26-27).

The first writ petition had been withdrawn on the Bank's undertaking, not decided on merits. The subsequent auction in breach of the lease conditions supplied a fresh cause of action. Applying the principles discussed through Daryao and Gulabchand Chhotalal Parikh, the Court held the High Court wrong to reject the later petition by analogy with section 11 CPC without examining the illegal auction (paragraphs 28-29).

The purchaser had acted in good faith, neither breached the covenant nor failed in diligence, and had not sought to profit from the illegality. The Bank bore responsibility for advancing on an illegal mortgage and conducting the sale. The Court applied restitution to protect the purchaser's retained money (paragraphs 30-31). The ruling enforces this lease and these auction-disclosure safeguards; it neither assesses tax nor lays down a universal priority of government claims over secured creditors.

Source: [reported rendition / paragraphs 23-27 / PDF pages 12, 13 / judgment](#); [reported rendition / paragraphs 28-31 / PDF pages 14, 15, 16 / judgment](#); [official signed judgment / paragraphs 23-27 / PDF pages 15, 16, 17, 18, 19 / judgment](#); [official signed judgment / paragraphs 28-31 / PDF pages 19, 20, 21, 22, 23, 24 / judgment](#)

03 JUDICIAL DECISION

DDA's appeal was allowed. The Court set aside the High Court's order dated 11 August 2014, the e-auction notice dated 27 September 2012, the auction conducted on 9 November 2012, the sale confirmation dated 8 July 2013 and the sale certificate dated 12 July 2013. The Bank was directed to return the entire balance of the auction purchaser's deposit still held by it, with 9% annual interest from deposit until repayment, within one month. The Court did not fix a fresh numerical refund amount, award the purchaser's requested 15% rate, quantify DDA's unearned increase, or expressly order a fresh auction or remand.

Source: [reported rendition / paragraphs 32-33 / PDF pages 16 / judgment](#); [official signed judgment / paragraphs 32-33 / PDF pages 24, 25 / judgment](#)

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: DDA on setting aside the auction and High Court dismissal; auction purchaser on restitution against the Bank

Civil Appeal No. 11269 of 2016 allowed; challenged auction instruments and High Court order quashed; retained deposit refundable by the Bank with 9% annual interest within one month

Validity of this auction and the res judicata objection decided; consequential restitution granted

Fact-specific DRT sale involving lease restrictions, nondisclosure and a breached court-recorded undertaking. No quantified award of DDA dues, general government-first priority, income-tax assessment or mandatory remand is established.

Source: [reported rendition / paragraphs 32-33 / PDF pages 16 / judgment](#); [official signed judgment / paragraphs 32-33 / PDF pages 24, 25 / judgment](#)

05 AKHB REVIEW POINT

Before a DRT auction of leasehold property, examine the instrument creating the lease, the actual mortgage consent, the lessor's unearned-increase and pre-emption terms, and all material claims affecting value. A preliminary no-objection to applying for a loan is not a substitute for the required mortgage permission. Use rule 16's information-gathering machinery when settling the rule 53 proclamation, and ensure material encumbrances are ascertained and disclosed before bids are invited. An 'as is where is' description should not be treated as curing the defects found here. In an unwind, distinguish amounts already returned from the deposit still held; this judgment orders 9% interest on the retained balance without itself supplying a reconciled rupee figure. Its lease-specific reasoning should not be promoted into a blanket governmental priority rule. Check the relevant statutory version and later treatment; no automatic mapping to the Income-tax Act, 2025 is made.

Source: [reported rendition / paragraphs 4-6; 17; 20-21; 23-33 / PDF pages 6, 9, 10, 11, 12, 13, 14, 15, 16 / judgment](#)

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

295(1); Second Schedule rules 91 and 92; Third Schedule

OTHER GOVERNING STATUTES

1.

Act: Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (renamed Recovery of Debts and Bankruptcy Act, 1993)

Provisions: 19; 29; 22

Role: Section 19 bank-debt recovery; section 29 borrowing clause is central; section 22 appears in procedural history

2.

Act: Income-tax (Certificate Proceedings) Rules, 1962

Provisions: 16

Role: Power to summon and examine persons and require documents relevant to sale proclamation; applied to the DRT Recovery Officer through section 29

3.

Act: Income-tax (Certificate Proceedings) Rules, 1962

Provisions: 18

Role: Reserve-price reference in auction-purchaser submission; not the independently stated basis of the Court's ruling

4.

Act: Code of Civil Procedure, 1908

Provisions: 11

Role: Res judicata principles invoked by the High Court; held inapplicable to this factual situation

5.

Act: Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002

Provisions: 18

Role: Appeal described in procedural history, not the source of the operative rule 53/rule 16 holding

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

Alok Aradhe, J.

PARTY ROLES IN THESE PROCEEDINGS

1.

Party: Delhi Development Authority

Role: Appellant and lessor of the auctioned plot; claimant to lease-based unearned increase and pre-emptive rights

2.

Party: Corporation Bank

Role: Respondent No. 1; lender and recovery applicant; directed to refund the retained auction deposit with interest

3.

Party: Sarita Vihar Club

Role: Respondent No. 2; lessee, borrower and defaulting mortgagor

4.

Party: M/s Jay Bharat Commercial Enterprises Pvt. Ltd.

Role: Respondent No. 6; successful auction purchaser; sought cancellation and restitution and was held to have acted in good faith

PRIMARY LEGAL SETTING

Bank-debt recovery and leasehold-property auction under the 1993 Recovery of Debts legislation. Section 29 borrows the Income-tax Act recovery schedules and certificate rules with necessary modifications.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SOURCE & VERIFICATION

[Hon'ble Supreme Court source PDF \(reported rendition\)](#)

Identified source rendition: 16 PDF pages; SHA-256
97ad06816abb86c4b39a9d8ad80bd1e8892b9f681819b048d3ce4b3dcd349470. Original bytes preserved.

[Open cited source rendition](#)

The author is Alok Aradhe, J., with Sanjay Kumar, J. on the bench. The index records only Sanjay Kumar with an asterisk; the visible cover, judgment heading and official signatures control.

This is a bank-debt recovery auction applying borrowed income-tax recovery machinery; there is no income-tax assessment, assessment year or income-tax department party.

Rule 53 is in the Second Schedule to the 1961 Act; rule 16 is in the 1962 Certificate Proceedings Rules. They are not interchangeable. Rule 18 appears in the purchaser's argument rather than the Court's stated basis for invalidity.

Paragraph 5 associates unearned increase and pre-emption with clause 6, while paragraph 26 refers to clauses 5(a) and 5(b) and describes the lease parties awkwardly as lessee and Club. Both renditions contain these wording differences. The note describes the rights without claiming to reconcile the underlying lease, which was not separately supplied.

Paragraph 27 calls Rs 8.85 crore the sale price, whereas paragraph 13 identifies it as the reserve price and Rs 13.15 crore as the accepted bid. The note keeps reserve price and actual bid distinct.

Paragraph 17 records Rs 12,26,42,478 already released; paragraph 21 records the purchaser's submitted retained-amount claim of Rs 1,68,28,488. Neither subtraction from the bid nor the submitted claim is adopted as the final refund. Paragraph 32 awards the balance still held, with 9%, not the requested 15%, annual interest.

The earlier writ was withdrawn because of a court-recorded undertaking, and the later auction supplied a fresh cause. The note does not turn that holding into a rule that every withdrawn writ permits re-litigation.

DDA's asserted statutory dues and request for restoration/collection from the Bank are party submissions in paragraphs 18-19. The operative order cancels the auction and grants purchaser restitution; it does not quantify or award DDA's dues or establish an across-the-board priority over secured creditors.

The public reported judicial boundary is paragraphs 1-33 on physical pages 5-16. Editorial headnotes and the reporter's result line are kept separate. No adjacent judgment is included.

No formal table occurs in this decision; operative monetary directions, reserve/bid amounts and lease-rule passages were cross-checked in the text and relevant rendered pages.

SCR and neutral citations are printed on the reported cover. Neutral citation, appeal number, author, judges and date are cross-checked against the official original.

Not an income-tax assessment or tax-dues case. This appeal concerns a DRT auction of DDA leasehold property to recover a bank debt; no assessment year applies.

Rule 53 belongs to the Second Schedule to the Income-tax Act, 1961. Rule 16, separately applied, belongs to the Income-tax (Certificate Proceedings) Rules, 1962, not to the Second Schedule. The rules operate here by section 29 of the 1993 bank-debt recovery statute, not because income tax was due.

STATUTORY SCOPE

Statutory provisions and historical amendments as examined in this judgment; no independent consolidated current-statute audit

No automatic mapping to the Income-tax Act, 2025 or automatic precedent carryover to later legislation.

LATER TREATMENT

Source checked 2026-10-04. Subsequent review proceedings, stays, reversals, implementation and later judicial treatment have not been comprehensively checked. This note is not a citator status certificate.

IDENTIFIED SOURCE LINKS

[reported rendition - Physical PDF page 1 / SCR page 1559 - PDF pages: 16](#)

SHA-256: 97ad06816abb86c4b39a9d8ad80bd1e8892b9f681819b048d3ce4b3dcd349470

[official signed judgment - PDF pages: 25](#)

SHA-256: 4a5b1287e9330d07cd885b81fad521208f1a35613e7528bb0de13451ac79b424

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