

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
MILIMANI COMMERCIAL COURTS
CIVIL CASE NO. 566 OF 1999

SURJIT SINGH 1ST PLAINTIFF
MALKIAT SINGH 2ND PLAINTIFF
VERSUS
MIWANI SUGAR COMPANY (1989) LIMITED DEFENDANT

RULING

The applicants who are the plaintiffs/decreed holders in this matter have lodged this application under O. XXI Rules 59 and 72, Order XLVIII Rules 5(1) (b) (x) and O. L Rule 1 of the Civil Procedure Rules for an order that the court be pleased to order the sale by public auction of the defendant's properties L.R. No. 7545/2 and 7545/3 and that the proceeds thereof be paid to the plaintiffs who are the judgment/creditors herein. The application is supported by an affidavit sworn on 20.5.2001 by Surjit Singh and is based on two grounds:-

1. The prohibitory order against the two properties issued by this court on 8.2.2001 has been registered at the Land Registry; and
2. The defendant has not satisfied the decretal sum herein. Although this application was served upon the judgment debtor as well as on the Bank of Baroda which has a charge registered against the properties, there has been no intervention by either of these two parties and consequently the application proceeded unopposed.

On the basis of what is contained in the application and the evidence disclosed by the affidavit sworn by Surjit Singh and further on the basis of submissions by learned counsel for the plaintiffs/decreed-holders, I am fully satisfied that the plaintiffs/decreed holders/applicants are entitled to the orders they seek. Accordingly the application is allowed as prayed. Costs of the application will be borne by the judgment debtor.

Dated at Nairobi this 5th day of July, 2001.
T. MBALUTO
JUDGE