

# Article set aside a sale in execution



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Article 127 is quite general and applies to all applications based upon whatever ground to set aside a sale in execution of a decree including any such application by a judgment-debtor.

The Article 127 is not restricted to applications under Order XXI, Rules 72 and 89 to 91; it is comprehensive enough to cover all applications for setting aside execution sale on any ground whatsoever. It is only voidable sales that are required to be set aside and to such an application Art. 127 is attracted.

When all the formalities for holding auction sale have been performed by the Court and the sale was held and the same was confirmed then the direction by the judgment-debtor against such sale and for setting it aside has to be filed within 60 days of the date the sale under Art. 127 of the Limitation Act, 1963. An application for setting aside sale under Order XXI, Rule 89 of the Civil Procedure Code attracts Art.

127 of the Limitation Act. The original limitation period under Art. 127 was 30 days and it was extended to 60 days by Civil Procedure Code (Amendment) Act, 1976 which came into force with effect from 1st February, 1977. If the application is not filed within the above period the application is liable to be dismissed. Time cannot be extended by invoking Section 5 of the Limitation Act, 1963. For the limitation to start running the sale must be a completed sale. Ordinarily, the auction sale is not complete until the Presiding Officer holding the sale had accepted the bid and declared the purchaser. In *Abdul Nab v.*

Bendakayala, [(1988) 2 Cur. Civ. Cas. 122 (AP)], it has been held that the application under Order XXI, Rule 89 of Civil Procedure Code along-with deposit within 60 days of the date of the sale was maintainable.