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SLP(C)No. 8708-8709 OF 2001

ITEM No.201

Court No. 3

SECTION XIA

A/N MATTER

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No.8708-8709/2001

(From the judgment and order dated 13.12.2000 passed in Misc.Case No.7103/2000 and Misc.Case No.7322/99 arising out of O.J.C.No.2989/1999 of the High Court of Orissa at Cuttack)

BIRANCHI NARAYAN MISHRA

Petitioner (s)

VERSUS

ADMINISTRATOR, SHRI JAGANNATH TEMPLE&ORS

Respondent (s)

(For Final Disposal)(With Office Report)

Date : 14/11/2003 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.C. LAHOTI

HON'BLE MR. JUSTICE ASHOK BHAN

For Petitioner (s)

Mr.P.N .Mishra,Sr.Adv.,
Mr.Shibashish Mishra,Adv.,
Mr. Debasis Misra,Adv.

For Respondent (s)

Mr. Janaranjan Das,Adv.,
Mr.Swetaketu Mishra,Adv.,
Ms.Moushmi Gahlot,Adv.

UPON hearing counsel the Court made the following

O R D E R

Leave granted.

The appeals are disposed of by directing modification of the order of the High Court that out of the amount deposited by the appellant which is Rs.7.2 lacs and deducting the amount of Rs .1 lac which already stands released to respondent No.2, a total amount of Rs.2.50 lacs shall stand forfeited in favour of the respondent No.1. The balance amount of Rs.3.70 lacs shall be refunded to the appellant within a period of six weeks from today. This order not to constitute precedent.

(Vijay Kumar Sharma)(Radha R.Bhatia)

AR cum PS to Hon.Judge Court Master

Signed order is placed on the file.

IN THE SUPERME COURT OF INDIACIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. /2003

(Arising out of SLP(c) Nos.8708-8709/2001)

BIRANCHI NARAYAN MISHRA..Appellant

Versus

ADMINISTRATOR, SHRI JAGANNATH TEMPLE & ORS...Respondents

O R D E R

Leave granted.

The appellant made a challenge to a bid held by respondent No.1. In terms of the directions made by the High Court and to satisfy court of his bonafides the appellant deposited an amount of Rs.7.2 lacs with the Competent Authority of respondent No.1. Thereafter, the bids were held afresh and the respondent No.2 was declared to be a successful bidder. The bid of the respondent accepted is for Rs.71.5 lacs while the earlier bid was for Rs.72 lacs. Thus, the respondent No.1 has suffered a loss of Rs.50,000/- on account of the proceedings initiated by the appellant.

Out of the amount deposited by the appellant, an amount of Rs.1 lac has gone to the respondent No.2 as mentioned in the order dated 7.5.1999 passed in M.C.No.5332/1999 (annexure P-3).

Having heard the learned counsel for the parties, we are satisfied that the forfeiture of the entire amount of Rs.7.2 lacs as ordered by the High Court shall be too onerous and too penal.

The notice was issued in this petition for the purpose of exploring the possibility of confining the quantum of forfeiture to a reasonable and unjust amount so that the interest of respondent No.1 is protected and the appellant is also made to compensate for his misadventure.

Learned counsel for the appellant under instructions states that the appellant is prepared to compensate respondent No.1 for the loss of Rs.50,000/- and also by another amount of Rs.2 lacs out of the amount deposited by him to be released to the respondent No.1 by way of compensation. The offer so made is very fair and reasonable and we are inclined to accept the same. The appeals are disposed of by directing modification of the order of the High Court that out of the amount deposited by the appellant which is Rs.7.2 lacs and deducting the amount of Rs.1 lac which already stands released to respondent No.2, a total amount of Rs.2.50 lacs shall stand forfeited in favour of the respondent No.1. The balance amount of Rs.3.70 lacs shall be refunded to the appellant within a period of six weeks from today.

Before parting with the order, we make it clear that we have not adjudicated upon the legal issues and we have resolved the controversy only in an equitable manner after hearing the learned counsel for the parties and with their assistance. This order does not constitute precedent.

.....J
(R.C. Lahoti)

.....J
(Ashok Bhan)

New Delhi,
November 14, 2003