

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

Review Petition(Civil) No.749-750/2000 in
C.A.No.1415-1416/2000

K.V. SHIVKUMAR & ANR.

Petitioner (s)

VERSUS

APPROPRIATE AUTHORITY & ORS.

Respondent (s)

with
I.A. No. 1 in TC(C) No. 22/1998
(Vidyavathi Kapoor Trust vs. Chief Commr., Income Tax & Ors.)
(for modification)

Date : 14/01/2002 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.N. KIRPAL
HON'BLE MR. JUSTICE D.P. MOHAPATRA
HON'BLE MR. JUSTICE R.P. SETHI

For Petitioner(s)/
Applicant (s) Mr. R.S. Hegde, Adv.
Mr. Somiran Sharma, Adv.
Mr. P P Singh, Adv.

For Respondent (s)
in R.P. & Applicant Mr. Gopal Subramaniam, Sr. Adv.
in T.C. No.22/1998 Mr. N.D.B. Raju, Adv.
Ms. Bharathi R., Adv.
Ms. Rizwana Parveen, Adv.
Mr. Guntur Prabhakar, Adv.

RR in R.P. Mr. Mukul Rohtagi, ASG.
Mr. Huzefa Ahmadi, Adv.
Ms. Lakshmi Iyengar, Adv.
Mr. B V Balaram Das, Adv.

UPON hearing the counsel, the Court made the following
O R D E R

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Counsel for the parties made their submissions from
10.30 A.M. to 10.55 A.M.
Both the review petitions and the interlocutory
application are disposed of in terms of the signed order.

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Kalyani. (S.L. GOYAL) @@
AA
COURT MASTER @@
A AA

(Signed Order is placed on the file.)

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IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

REVIEW PETITION (C) NOS.749-750 OF 2000@@
CC
IN CIVIL APPEAL NOS. 1415-1416 OF 2000

K.V. SHIVKUMAR & ANR. ..Petitioner(s)

vs.

APPROPRIATE AUTHORITY & ORS. ..Respondent(s)

WITH
IA NO.1 in T.C. (C) NO. 22/1998@@
CC

VIDYAVATHI KAPOOR TRUST ..Petitioner(s)

vs.

CHIEF COMMNR., INCOME TAX & ORS. ..Respondent(s)

O R D E R@@
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In the instant case there was compulsory purchase of the property which was sought to be sold. It is not in dispute that after the compulsory purchase the property was put to auction. The applicant-Shivkumar bid Rs. 2,77,00,000/- and a sum of Rs. 47,01,000/- was deposited with the Department. This compulsory purchase has been set aside by this Court and as a result thereof the said amount of Rs. 47,01,000/- is claimed by the applicant alongwith interest. It is the case of the Department that out of the bid amount only a sum of Rs. 47,01,000/- was deposited and the balance was not deposited and therefore the amount deposited is liable to be forfeited.

Mr. Gopal Subramaniam, the learned senior counsel appearing for legal representatives of respondent D.P. Sharma states that his client had contributed 1/3rd of this amount as ...2/-

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a joint purchaser and the entire sum of Rs. 47,01,000/- is not due and payable to Shivkumar. It is stated that some litigation(WP NOP. 40340/2001) is going on between the parties in the High Court at Bangalore.

In our opinion, as far as the Department is concerned, it is certainly not entitled to retain the sum of Rs. 47,01,000/- which had been deposited pursuant to the auction sale when the compulsory purchase itself has been set aside. It is the case of the Department now before us that this amount has been forfeited because the balance amount had not been deposited. There is nothing on record to indicate the action of any such forfeiture. Furthermore, it is not for this Court to go into the question as to whether whole or any part of this amount of Rs. 47,01,000/- is to be refunded to Shivkumar alone or someone else is also entitled to have a share in it.

In our opinion, it will be appropriate to direct the Department to deposit this amount of Rs. 47,01,000/- alongwith interest at the rate of 9% from the date of payment till the date of deposit with the Registrar, Karnataka High Court. This deposit should be made within a period of eight weeks. Liberty is given to the parties to approach the High

...3/-

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Court for appropriate orders with regard to the disbursement of the said amount. It will be open to the parties to raise such contentions as may be available to them in accordance with law. It is clarified that it will be open to the Department to prove that this amount of Rs. 47,01,000/- stands forfeited.

In the second round of compulsory purchase a sum of Rs. 1,55,00,000/- was deposited by Shivkumar. That amount after deducting any amount, if already paid, has to be refunded to Shivkumar with interest at the rate of 9 per cent per annum from the date of deposit till the date of payment. This refund should be made within eight weeks. No dispute is raised by any party with regard to this amount of Rs. 1,55,00,000/-.

Both the review petitions as well as the interlocutory application are disposed of.

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.....J.
(B.N. KIRPAL)

.....J.
(D.P. MOHAPATRA)

New Delhi,
January 14, 2002.

.....J.
(R.P. SETHI)