

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(s).10881/2012

(From the judgement and order dated 16/09/2011 in CA No.60/2011 of the  
HIGH COURT OF DELHI AT NEW DELHI)

M/S. SUCHIT PAVITRA (SARASUR)  
INDUSTRIAL CO-OPERATIVE SOCIETY

Petitioner(s)

VERSUS

OFFICIAL LIQUIDATOR & ORS.

Respondent(s)

(With appln(s) for directions, impleadment, prayer for interim relief  
and office report)

Date: 31/01/2013 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE AFTAB ALAM  
HON'BLE MRS. JUSTICE RANJANA PRAKASH DESAI

Counsel for the parties

Mr. Abhishek M. Singhvi, Sr. Adv.  
Mr. Shyam Divan, Sr. Adv.  
Mr. Mayur Rajguru, Adv.  
Mr. Jatin Zaveri, Adv.  
Mr. Neel Kamal Mishra, Adv.

Mr. Ravindra Kumar, Adv.

Mr. Huzefa Ahmadi, Sr. Adv.  
Mr. Nachiket A. Dave, Adv.  
Mr. Pradhuman Gohil, adv.  
Mr. Vikash Singh, Adv.  
Mr. S. Hari Haran, Adv.  
Ms. Taruna Singh, Adv.

Mr. Mukul Rohatgi, Sr. Adv.  
Mr. Mohit Paul, Adv.  
Mr. Ayush Agrawal, Adv.

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Mr. C.U. Singh, Sr. Adv.  
Mr. Barun Kumar Sinha, Adv.  
Mrs. Pratibha Sinha, Adv.  
Mr. Dhawal Mehrotra, Adv.  
Mr. Muthu V. Pilani, adv.  
Mr. B.K. Satija, Adv.

Mr. Venkita Subramoniam T.R., Adv.  
Mr. Rahat, Adv.

UPON hearing counsel the Court made the following

O R D E R

IA No.4 is dismissed as withdrawn with liberty to the applicants to seek their remedies as may be available in law.

The controversy in this special leave petition relates to the auction sale of a piece of land situated in Ahmedabad belonging to a company in liquidation, namely, M/s. Continental Textile Mills Limited.

The auction for the sale of the land took place on February 01, 2007. The petitioner was the highest bidder, offering `41,05,08,000. Under the terms of the auction, 25% of the bid amount was required to be deposited within thirty days and the balance 75% within sixty days of the date of the auction. Thus, the petitioner was required to deposit 25% of its bid amount by March 02, 2007, and the balance 75% by April, 2007. It was also stipulated in the terms of the auction that in case of any breach in making deposit of the bid amount, the bid would be treated as cancelled. The petitioner deposited 25% of its bid amount on March 12, 2007, that is after delay of 10 days, but defaulted badly in making the deposit of the rest of the bid amount. The balance amount was deposited by the petitioner on August 08, 2008, only after a reminder, that was wholly uncalled for, was sent by the Official Liquidator.

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It may be noted that before depositing the rest 75% of the bid amount, the petitioner had filed on May 06, 2008, an application which was registered as Company Application No.601 of 2008 making the prayer for extension of the time for deposit. The application was rejected by the Company Judge by order dated July 04, 2011. It may also be noted here that by that time, respondent Nos. 4 to 7 had also come into picture making an offer of `53 crores and later raising it to `62 crores, for the sale of the land in their favour.

The petitioner challenged the order passed by the Company Judge in an appeal before the Division Bench. The Division Bench noted the aforesaid facts and by judgment and order dated September 16, 2011 rejected the appeal. While rejecting the petitioner's appeal, the Division Bench observed that the appellant (petitioner before this Court) would be entitled to refund, along with "some interest", for which it should make a proper application before the Company Judge.

The petitioner then brought this matter to this Court in this special leave petition.

When the special leave petition was taken up on March 26, 2012, we found the judgment of the High Court quite correct and sound. We, nevertheless, issued notice, primarily because it was stated on behalf of the petitioner that it was ready to make the matching offer of `62 crores. When the case was again taken up for hearing on January 24, 2013, respondents 4 to 7 raised their offer to `65 crores and when the petitioner agreed to pay `65 crores, further raised it to `70 crores.

In order to secure the best value for the land, the case was adjourned for today and both the petitioner and

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respondents 4 to 7 were asked to give their highest offers in a sealed cover.

When this case was taken up today, apart from the petitioner and respondent Nos. 4 to 7, there are other contenders with their offers in sealed covers. On behalf of one of the parties seeking impleadment, it was stated that his offer was in three figures (in crores).

We, therefore, see no reason to confine the bid, within this Court, among the four or five contenders who are before us. We feel that if the Company Court holds a public auction, the land would certainly fetch a better price.

We, accordingly, direct the Company Court to hold a fresh public auction for the sale of the land. A refundable/adjustable deposit of '40 crores by a demand draft would alone make a party eligible to take part in the auction. It should also be clearly stated in the terms of the auction that the highest bidder would be required to deposit the entire bid amount by a demand draft within forty eight hours of the bid. In case, the highest bidder fails to deposit the bid amount within the stipulated time, the security deposit made by him would stand forfeited and in that case the next bidder would be called upon to deposit his full bid amount by a demand draft within forty eight hours.

The auction, as directed above, may be held and the sale may be confirmed within two months from the date of receipt/production of a copy of this order before the Company Court.

The amount of '41,05,08,000 deposited by the petitioner shall be refunded to it with whatever interest the money has actually earned in the meanwhile. The refund should be made within one month from today.

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With the aforesaid observations, the special leave petition stands dismissed.

All other pending interlocutory applications do not survive in view of the dismissal of the special leave petition.

|(N.S.K. Kamesh)

| |(Sneh Bala Mehra)

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|Court Master

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