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SLP(C)No. 8579 OF 2003  
ITEM No.38

Court No. 6

SECTION XIV  
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.8579/2003

(From the judgement and order dated 31/03/2003 in CWP 622/01  
of The HIGH COURT OF H.P AT SHIMLA)

DHANANJAY SHARMA

Petitioner (s)

VERSUS

H.P. FINANCIAL CORPN. & ORS.

Respondent (s)

( With prayer for interim relief )

Date : 31/10/2003 This Petition was called on for hearing today.

CORAM :

HON'BLE MRS. JUSTICE RUMA PAL  
HON'BLE MR. JUSTICE P.VENKATARAMA REDDI

For Petitioner (s) Mr. Vijay Kumar, Adv.  
Mr. Vishwajit Singh,Adv.

For Respondent (s) Mr. DA. Dave, Sr.Adv.  
Mr. J.S. Attri,Adv.

Mr. LR. Rath, Adv.  
Mr. Debasis Misra,Adv.  
Mr. Varinder Kumar,Adv.

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

Leave granted.  
The appeal is disposed of. No costs.

(S. Thapar)  
PS to Registrar

(Madhu Saxena)  
Court Master

The signed order is placed on the file.

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.....OF 2003  
(Arising out of SLP(C)No. 8579 of 2003)

Dhananjay Sharma

Appellant (s)

Versus

H.P. Financial Corpn. & Ors.

Respondent (s)

O R D E R

Leave granted.

The appellant was granted a loan by the respondent - Financial Corporation. By reason of default in repayment of the loan, the Financial Corporation took possession of the appellant's Hotel and sold it in 1992 to the respondent No.2. The respondent No.2 has, in turn, transferred the property to a 3rd party who is not before this Court.

The appellant filed a writ petition for setting aside the sale in favour of respondent No.2 on 22nd of July, 2001. Pending the writ petition the appellant was directed to deposit a sum of Rs.7 lakhs with the respondent No.1 as a pre-condition to the grant of interim relief. The appellant complied with the Court's Order. However, when the matter was ultimately taken up for hearing on 31st of March, 2003, the writ petition was dismissed on the ground of delay, the Court having found that the appellant knew about the sale several years prior to approaching the Court. In addition to dismissing the writ petition, the High Court also directed that the amount of Rs. 7 lakhs which the appellant had deposited pursuant to the order of the Court together with accrued interest thereon, be made over to the respondent No.1 in pro tanto satisfaction of its

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claim against the appellant.

The decision of the High Court has been impugned before this Court by the appellant on the ground that the High Court erred in holding that the writ petition was delayed in view of the fact that the permission to sell the property to the respondent No.2 was granted by the State Government only on 30th July, 2001, i.e. after the filing of the writ petition. Several other grounds have been taken including the propriety of the sale being effected in favour of respondent No.2. Allegations have also been made regarding complicity between the respondents Nos.1 and 2.

We are not prepared to go into these allegations because of the gross delay on the part of the appellant. The sale was effected in 1992 and the respondent No.2 has been in possession of the property after paying the purchase price since 1994. Besides third party rights have intervened. As such we see no reason to interfere with the decision of the High Court except to the extent that it directed the appropriation of the amount deposited by the appellant with the High Court by the respondent No.1. The respondent No.1 will refund the amount of Rs. 7 lakhs together with interest which had accrued thereon at the time of appropriation as well as interest subsequent thereto. We pass the aforesaid order not on the basis of any determination of the dues of the appellant to respondent No.1 but because we are of the view that the appellant having come to the Court for relief could not have been put to greater disadvantage. The decision of the High Court to the extent that it directed appropriation of the amount deposited by the respondent No.1 is accordingly set aside and the appeal accordingly allowed to the

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aforesaid extent. It is being made clear that this order has been passed without prejudice to the rights and contentions of the parties with regard to the quantum of liability of the appellant to respondent No.1. The appeal is disposed of accordingly. No costs.

.....J  
(Ruma Pal)

.....  
(P. Venkatarama Reddi)  
New Delhi,  
October 31, 2003