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SLP(C)No. 15854 OF 2003
ITEM No.37

Court No. 8

SECTION XVII
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.15854/2003

(From the judgement and order dated 15/01/2003 in CR 1625/02
of The HIGH COURT OF JUDICATURE AT PATNA)

SAMSHER

Petitioner (s)

VERSUS

STATE BANK OF INDIA Respondent (s)
(With Appln(s). for c/delay in filing SLP and c/delay in refiling SLP)
(With prayer for interim relief)

With

SLP(C)No.15451/2003
(With prayer for interim relief)

Date : 19/04/2004 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.N. VARIAVA
HON'BLE MR. JUSTICE H.K. SEMA

For Petitioner (s)Mr. Shrish Kumar Misra,Adv.
Mr. Pratap Shanker, Adv.

For Respondent (s)Mr. R.Sundaravaradan, Sr.Adv.
Mr. R.N. Keshwani,Adv.

Mr. Pawan Kumar, Adv.
Mr. Ramlal Roy, Adv.

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

Delay condoned.

Leave granted.

The Appeals are disposed of in terms of the signed order.

There will be no order as to costs.

Anita

(Jasbir Singh)
Court Master

(Signed Order is placed on the file.)
IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2612 OF 2004
(Arising out of S.L.P. (Civil) No. 15854 of 2003)

SAMSHER

...

Appellant (s)

Versus

STATE BANK OF INDIA

...

Respondent (s)

WITH

CIVIL APPEAL NO. 2613 OF 2004

(Arising out of S.L.P. (Civil) No. 15451 of 2004)

O R D E R

Delay condoned.

Leave granted.

Heard learned counsel for the parties.

Both the matters can be disposed off by this common Judgment.

The Appellants have filed Insolvency Petitions for being declared as insolvents. The Trial Court dismissed the Petitions on the ground that the attempt was to delay and/or avoid making re-payment of the loan amounts taken from the bank. The High Court has affirmed this decision.

In our view this is not a ground on which an Insolvency Petition can be dismissed. The Insolvency Court should have considered Insolvency Petitions on their merits. We, therefore set aside the impugned Orders and Orders of the Insolvency Court and remit the matters back to the Insolvency Court. We clarify that the Respondent-Bank will be at liberty to proceed and entitled to recover its dues in accordance with law.

The Civil Appeals are disposed of accordingly. There will be no order as to costs.

.....J.

(S.N.Variava)

.....J.

(H.K.Sema)

New Delhi,
April 19, 2004.