

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

CIVIL APPEAL NO(s). 3661 OF 2006

STATE OF UTTARANCHAL & ORS.

Appellant (s)

VERSUS

M/S. B.K. ENTERPRISES SIRMOLI & ORS.

Respondent(s)

WITH SLP(C) NO. 13917 of 2008
(With prayer for interim relief and office report)
Civil Appeal NO. 3662 of 2006
(With appln(s) for c/delay in filing process fee/spare copies)
Civil Appeal NO. 3663 of 2006
(With appln(s) for c/delay in filing process fee/spare copies)
Civil Appeal NO. 3664 of 2006
(With appln(s) for c/delay in filing process fee/spare copies)
Civil Appeal NO. 3665 of 2006
(With appln(s) for c/delay in filing process fee/spare copies)
Civil Appeal NO. 3667 of 2006
(With appln(s) for c/delay in filing process fee/spare copies)
Civil Appeal NO. 3668 of 2006
(With appln(s) for c/delay in filing process fee/spare copies)
Civil Appeal NO. 3670 of 2006
(With appln(s) for c/delay in filing process fee/spare copies)
Civil Appeal NO. 3671 of 2006
(With appln(s) for c/delay in filing process fee/spare copies)
Civil Appeal NO. 3672 of 2006
(With appln(s) for c/delay in filing process fee/spare copies)
Civil Appeal NO. 3673 of 2006
(With appln(s) for c/delay in filing process fee/spare copies)
Civil Appeal NO. 3675 of 2006
(With appln(s) for c/delay in filing process fee/spare copies)

Date: 15/03/2011 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B. SUDERSHAN REDDY
HON'BLE MR. JUSTICE SURINDER SINGH NIJJAR

For Appellant(s)

Mr. Rahul Verma, Adv.
Ms. Rachana Srivastava, Adv.

Mr. Shekhar Kumar, Adv.

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.2.

For Respondent(s)

Mr. Mukesh Verma, Adv.
Mr. Pawan Shukla, Adv.
Mr. S. K. Sharma, Adv.
Mr. Yash Pal Dhingra, Adv.

Dr. Meera Agarwal, Adv.
Mr. Ramesh Chandra Mishra, Adv.

Mr. S.S. Shamsbery, Adv.
Mr. P.N. Gupta, Adv.

Mr. Pradeep Misra, Adv.

Mr. R. K. Gupta, Adv.
Mr. S.K. Gupta, Adv.
Mr. M. K. Singh, Adv.
Mr. B. K. Shahi, Adv.
Mr. Shekhar Kumar, Adv.

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

The Civil Appeals are allowed and the Special Leave
Petition (Civil) No. 13917 of 2008 is dismissed in terms of
the signed order.

(NIDHI CHUGH)
Sr. P.A.

(RENUKA SADANA)
Court Master

(Signed order is placed on the file.)

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 3661 OF 2006

STATE OF UTTARANCHAL & ORS. ... Appellants

VERSUS

M/S. B.K. ENTERPRISES SIRMOLI & ORS. ... Respondents

WITH

SLP(C) NO. 13917 of 2008

Civil Appeal NO. 3662 of 2006

Civil Appeal NO. 3663 of 2006

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Civil Appeal NO. 3671 of 2006

Civil Appeal NO. 3672 of 2006

Civil Appeal NO. 3673 of 2006

Civil Appeal NO. 3675 of 2006

O R D E R

These appeals are being disposed of by common order since the question that arises for consideration in all of these appeals is one and the same.

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.2.

The respondents participated in the auction held on 10.06.1997 pursuant to Auction Notice dated 31.05.1997 proposing to auction Resin raw material extracted from Chir trees of 1993 and 1996 resin crop, the respondents herein made their offer for the four lots in the auction. Offer was approved by the competent authority, i.e., the Conservator of Forests, North Kumaun Circle, Nainital vide letter dated 26.06.1997. The respondents were, accordingly, informed requiring them to make such deposits and lift the resin as per the approved auction. The respondents neither deposited the said amount nor lifted the raw material on 17.10.1997. The respondents were repeatedly asked to make the necessary deposit and lift the material. The fact remains that the respondents failed to deposit the amount and lift the raw material despite several notices. The competent authority having waited for considerable time decided to re-auction which was held on 25.05.1998. The initial deposit made by the respondents herein at the time of participation in the auction were, accordingly, forfeited. In the re-auction, the department received the highest bids which were admittedly lower than the amount that were offered by the respondents in the initial auction that was held on 10.06.1997. It is under those circumstances, the respondents were served with notices to deposit the difference of the amount, that is to say, the difference of price between the first and the second auction, after deducting the forfeited security amount. The respondents did not deposit the difference amount as demanded by the authorities. It is for that reason, the department requested the District Magistrate to recover the amount as arrears of land revenue.

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.3.

The respondents herein questioned the said order and the proceedings of the District Magistrate to recover the amount from the respondents as arrears of land revenue.

The High Court having totally misdirected itself to the question that had fallen for its consideration allowed the writ petitions filed by the respondents on the ground that the dispute, if any, between the department and the respondents was required to be adjudicated by a third authority. It is difficult to discern as to how and on what basis, the High Court has arrived at such a conclusion. There is no dispute, whatsoever, that the respondents herein participated in the auction that was held on 10.06.1997 subject to the terms and conditions of auction. The terms of auction, inter alia, provide that:-

"5. In case the value is not deposited upto 60 days from the issue of grant letter of the auction, from the office of the Deputy Divisional Forest Officer, then the contract can be cancelled from his name. Then by confiscating his security the lot can also be re-auctioned again. In the event of re-auction, in case lesser sale

price is received, then such difference of the value shall be payable by the earlier one. In the event of non payment of the difference, its recovery shall be made as recovery of arrears of land Revenue and the name of the purchaser can be black listed."

This condition has been completely ignored by the High Court. It is needless to state that both the department as well as the respondents who participated in the auction, subject to the terms of auction, are bound by the terms and conditions of the auction. Under Clause(5) of terms of auction, the appellants are entitled to proceed against the respondents for realisation of the difference of amounts and recover the same as recovery of .4.

.4. arrears of land revenue and also to blacklist the respondents as defaulters preventing them from participating in any future auctions.

In such view of the matter, it is difficult to sustain the impugned order passed by the High Court. The action initiated by the appellants herein for recovery of the difference of amount in terms of the terms of auction does not suffer from any infirmity requiring any interference of the High Court. The High Court's interference was uncalled for. The impugned judgment is, accordingly, set aside.

The Civil Appeals are, accordingly, allowed.

In view of our order in Civil Appeal No. 3661 of 2006 and batch, the Special Leave Petition (Civil) No. 13917 of 2008 is required to be dismissed and the same is, accordingly, dismissed.

....., J.
[B. SUDERSHAN REDDY]

....., J.
[SURINDER SINGH NIJJAR]

NEW DELHI;
MARCH 15, 2011.