

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO.1309 OF 2006

D. KUMAR APPELLANT(s)

VERSUS

THE CUSTODIAN & ORS. RESPONDENT(s)

WITH

CIVIL APPEAL NO.2732 OF 2006

O R D E R

Criminal Appeal No.1309 of 2006

In this case, the notified party, Fair Growth Financial Service Ltd. holds a decree against M/s Impressive Touchwood Craft Pvt. Ltd. One of the Directors of the Impressive Touchwood Craft Pvt. Ltd. is one Shri Ramjee. The custodian sought to recover the decretal amount from the Impressive Touchwood Craft Pvt. Ltd. In the course of such recovery, the custodian came to know that Impressive Touchwood has entered into transaction for purchase of certain land in Bangalore from one Shri S.Narasimhaiah and for that purpose paid an amount of Rs.17,52,000/- to agent D.Kumar. It is the case of the D.Kumar that out of Rs.17,52,000/- he has paid an amount of Rs.9,83,625/- to

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the owner Shri Ramjee. He has returned the amount of Rs.5,00,000/- to Impressive Touch and retained the amount of Rs.2,67,000/-. There is evidence to show that D.Kumar acting as a property broker has returned Rs.5,00,000/- to Impressive Touch and has paid an amount of Rs.9,83,625/- to the land owner Shri S.Narasimhaiah. Undoubtedly, since he has retained the amount of Rs.2,67,000/- that belonged to Impressive Touch which is a judgment debtor, that amount has to be returned to the custodian on behalf of the notified party.

We accordingly direct that the appellant shall pay to the custodian an amount of Rs.2,67,000/- with interest at the rate of 12% till the date of realization. Learned counsel for the respondent-custodian states that they seek liberty to move against Shri S.Narasimhaiah since it is reported that there was no such land in respect of which the aforesaid transaction was made and moneys were paid over. The custodian may do so in accordance with law.

If the appellant pays the amount as directed aforesaid within a period of eight weeks, the sentence awarded against him shall stand set aside. If he does not, he shall serve the sentence as directed by the High Court.

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The appeal is disposed of in the above terms.

Civil Appeal No.2732 of 2006

In view of the disposal of Criminal Appeal No.1309 of 2006, this civil appeal does not survive and is accordingly disposed of.

.....J.

(S.A. BOBDE)

.....J.

(L. NAGESWARA RAO)

NEW DELHI;

21 st

MARCH, 2017.

ITEM NO.102

COURT NO.9

SECTION IIA

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

RECORD OF PROCEEDINGS

Criminal Appeal No(s).1309/2006

D. KUMAR

Appellant(s)

VERSUS

THE CUSTODIAN & ORS.
(with appln. (s) for stay and office report)

Respondent(s)

WITH

C.A.No.2732/2006

Date : 21/03/2017 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.A. BOBDE

HON'BLE MR. JUSTICE L. NAGESWARA RAO

For Appellant(s)

Mr.N.D.B. Raju, Adv.

Mr.M.A. Chinnasamy, Adv.

For Respondent(s)

Mr.Arvind Kumar Tewari, Adv.

Ms. Shana Sharma, Adv.

UPON hearing the counsel the Court made the following

O R D E R

Criminal Appeal No.1309 of 2006 and Civil Appeal No.2732 of
2006 are disposed of in terms of the signed order.

(Ashok Raj Singh)

(Indu Pokhriyal)

Court Master

Court Master

(Signed Order is placed in the file)