

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). 5168 OF 2000

SANCHAYANI SAVINGS INVESTMENT(I) LT.&ORS

Appellant (s)

VERSUS

STATE OF WEST BENGAL & ORS

Respondent(s)

(With appln(s) for directions and intervention and impleading party and directions and permission to

submit additional documents and clarification/modification of Court's Order and intervention and

directions and exemption from filing O.T. of annexure and permission

and office report)

WITH CONMT.PET.(C) NO. 389 of 2004 in C.A.No.5168 of 2000

(With appln.(s) for permission to submit additional documents and office report)

Date: 25/07/2006 This Appeal was called on for mentioning today.

CORAM :

HON'BLE MR. JUSTICE B.P. SINGH

HON'BLE MR. JUSTICE ALTAMAS KABIR

For Appellant(s)

Mr. S.V. Deshpande, Adv.

Mr. Anoop G. Chowdhry, Sr.Adv.

Ms. June Chowdhry, Adv.

Mr. Sidharth Chauhan, Adv.

Mr. Ashish Sethi, Adv.

Mr. Ugra Shankar Prasad, Adv.

Mr. Sanjay Bansal, Adv.

Mr. Ashu Bhatia, Adv.

Mr. G.K. Bansal, Adv.

For the applicant

Mr. Ravinder Srivastava, Sr.Adv.

Mr. Chandra Prakash, Adv.

Mr. L.R.Singh, Adv.

Mr. Vivek Singh, Adv.

For applicant in IA.40: Mr. Manish Pitale, Adv.

For Respondent(s)

Mr. Deba Prasad Mukherjee, Adv.

Mr. Rana Mukherjee, Adv.

Mr. Siddharth Gautam, Adv.

Mr. Goodwill Indeevar, Adv.

Mr. D. Mahesh Babu, Adv.

Mr. Ramesh Babu M.R., Adv.

Ms. Manisha Singh, Adv.

Mr. Srinjoy, Adv.

Mr. B.B.Sawhney, Sr.Adv.

Ms. Indra Sawhney, Adv.

For intervenor

Mr. C.A. Sundaram, Sr.Adv.

Mr. Vishal Anand, Adv.

Mr. Avinash Gupta, Adv.

Ms. Sharmila Upadhyya, Adv.

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Mr. S.N.Bhat, Adv.

Mr. Abhishth Kumar, Adv.

Mr. Ajit Kumar Pande, Adv.

Mr. Prashant Kumar, Adv.

Mr. Mukesh K. Giri, Adv.

Mr. Vishwajit Singh, Adv.

Mr. Varinder Kumar Sharma, Adv.

Mr. Ashiesh Kumar, Adv.

Mr. Rahul Srivastava, Adv.

Ms. Suparna Srivastava, Adv.

Ms. Pooja Matlani, Adv.

Mr. Rajesh Srivastava, Adv.

Mr. Ajay Choudhary, Adv.

Mr. Vijay Raghavan, Adv.

Mr. T.Raja, Adv.

Mr. A.N.Bardiyar, Adv.

Mr. Raja Chatterjee, Adv.

Mr. Sachin Das, Adv.

Ms. Rajni Bhagat, Adv.

Mr. G.S.Chatterjee, Adv.

Mr. Manu Nair, Adv.

for M/s Suresh A.Shroff & Co., Adv.

Mr. B.S.Banthia, Adv.

Mr. Amit Mishra, Adv.

Mr. Arun K. Sinha, Adv.

Ms. Hema Sahu, Adv.

Mr. C.L.Sahu, Adv.

Mr. P.V.Dinesh, Adv.

Mr. Shekhar Naphde, Sr. Adv.

Mr. Himanshu Gupta, Adv.

Mr. S.M. Jadhav, Adv.

Mr. Brij Kishor Sah, Adv.

Mr. Farrukh Rasheed, Adv.

Mr. S.Kamran Razvi, Adv.

Mr. V.N.Raghupathy, Adv.

For Special Officer: Mr. TLV Iyer, Sr.Adv.

Mr.C.K. Sasi, Adv.

Ms. Suruchi Aggarwal, Adv.

Mr. Ayushya Kumar, Adv.

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For intervenor:

Mr. S.B. Sanyal, Sr, Adv.

Mr. Satyajit A. Desai, Adv.

Ms.Anagha S. Desai, Adv.

Mr. Amol Suryawanshi, Adv.

Mr. Venkateswara Rao Anumolu, Adv.

For Akruti Venture

Mr. Shekharprit Jha, Adv.

Mr. A.K.Roy, Adv.

Mr. Bipin Kumar Jha, Adv.

UPON hearing counsel the Court made the following

O R D E R

By order dated 9th May, 2006 we had accepted the highest

bid of M/s Scotts Plantations (Pvt) Ltd. which was Rs. 17.75 crores. As directed

the entire amount has been deposited with the Special Officer.

Mr. Shekhar Naphade learned senior counsel appearing on behalf M/s

Sukrut Realtors who obtained a decree and bought the property in question in auction sale submits that the amount of decree is Rs.1,15,44,433,00 and interest at the rate of 10% has already been decreed. He files before us a calculation of the principal amount and the interest due thereon together with Bill of Costs and legal fees which comes to a total of Rs.2,03,44,055.00. The decree holder, namely M/s Sukrut Realtors had agreed that in case of sale of the property if payment is made to it of the amount due it will withdraw the execution proceedings. In this view of the matter, we

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direct the Special Officer to pay to M/s Sukrut Realtors a sum of Rs.2,03,44,005.00 and obtain a writing recording satisfaction of the decree. We direct M/s Sukrut Realtors to file in this Court a writing recording satisfaction of decree whereafter the aforesaid sum of Rs.2,03,44,005.00 shall be paid to it by the Special Officer. Since the decree already stands executed, it is only necessary to record adjustment before this Court, and it is not necessary to take any further steps before the executing Court at Bangalore. The execution proceedings shall be deemed to have been withdrawn. The payment shall be made within a week of satisfaction being recorded and filed in this Court.

The Special Officer shall now execute a sale deed in favour of M/s Scotts Plantations (Pvt.) Ltd. who shall bear the stamp duty and cost of registration. The purchaser shall prepare a draft sale deed for approval of the Special Officer, and take all necessary steps for execution and registration of the sale deed. The Special Officer will also hand over to the purchaser all documents pertaining to the property in question which are in his possession and shall hand over possession of the premises upon the completion of the registration on a date to be fixed by the parties.

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IA.No.41

I.A.No.41 has been filed by Subhash Ukharda Patil claiming the property at Sanchayani Nagri at Khmla Road, Nagpur under an agreement to sell dated 5.8.95. The copy of the application has been handed over today to the Special Officer and the appellant prays for time to file reply. Two weeks' time is granted, as prayed for. One week thereafter is granted for filing rejoinder, if any. List after three weeks.

IA.No.42

I.A.No.42 has been filed by M/s Jarna in respect of property at Bhudev

Nagar, Amrawati Road, Nagpur. A copy of the application has been handed over to the Special Officer and to the counsel for the appellant who wish to file a reply. Two weeks' time is granted for filing of reply as prayed for. One week thereafter is granted for filing rejoinder, if any, List after three weeks.

IA.No.40:

I.A.No.40 has been filed by Rajesh in respect of Flat No.302, Loknath Tower, 3rd Floor, Dhantoli, Nagpur, Sanchayani House, Goa, Panjim. A copy of the application has been handed over to the Special Officer and to the

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counsel for the appellant who wish to file a reply. Two weeks' time is granted to file reply as prayed for and one week thereafter for rejoinder, if any. List after three weeks.

Counsel for the applicant states that no formal agreement has been executed evidencing payment of booking amount.

Item No.6(a):

Allahabad Zonal Office was located in Sundaram Tower Complex, Rambagh Chawraha, Allahabad. It is stated that it is a rented premises. Counsel for the appellant states that some of the documents pertaining to the Zonal Office were kept in the premises and therefore, it may be necessary to approach the

Police Authorities to obtain those documents which must have been removed under a Panchnama. The Special Officer is directed to approach the Police

Authorities and make an attempt to obtain the documents that were kept in the building which have since been removed.

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Item No.6(b):

Bhopal Branch, Subagh Citi Centre, 3rd floor, Malviya Nagar was a rented premises which was handed over under Court's order. However, the Special Officer may approach the concerned authorities/court to obtain the documents that were kept in the premises.

Item No.6(c):

It appears that particulars with regard to the Branch Office at Bijay Nagar are not correct because there is no such district at Gulabpura in Rajasthan. The Special Officer will make necessary enquiry and ascertain the position.

Item No.6(d):

It is stated that Ahmedabad Branch at Narayanpura, Ahmedabad was sealed by the Bombay Crime Branch on the complaint of depositors. The Special Officer will make an enquiry and submit a report as to the present status of the proceedings, if any pending before any authority.

Item No.6(e):

The Bangalore Branch at Jain Nagar has been locked up but it is not known by whom. The Special Officer will make an enquiry and submit a report to this Court and also find out whether the documents which were kept in the office are available.

:8:

The counsel for the appellant states that the 2nd floor of Orange City

Hotel in Sitabuldy, Nagpur were purchased by the Company in the year 1993-94

and full payment was made. The said property has been illegally encroached upon

by the developer himself namely one Milind Mahajan. The counsel for the

Special Officer states that he will enquire into the matter and submit a report to

this Court. If necessary, the Special Officer will take the assistance of the

concerned police officers and District Magistrate Nagpur.

The 17th report was considered. Item No.1 of the report relates to two properties; the first located at 13, Bangalore and the second relating to 11 Flats of

Sanchayani City situated at Belapur, Navi Mumbai. So far as the 11

flats/Penthouse are concerned, the developers M/s City Builders submitted that

the flats are not complete in all respects. The electricity provided is only

temporary. He also submits that there is no water supply in the flats in question.

However, M/s City Builders are willing to pay a sum of Rs. 3 crores for all the 11 Flats/Penthouse and complete the project to the satisfaction of all the purchasers of the flats. They will also discharge liability towards the property tax, etc.

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The counsel for the appellant submits the price being offered is not sufficient. A better offer may be made if another advertisement is issued. We have before us a representative of the M/s Scotts Plantations (Pvt) Ltd. which has purchased the Bangalore Property. The representative states that without even looking at the flats, M/s Scotts Plantations (Pvt) Ltd. is willing to pay an amount of Rs.3,50 crores for the 11 Flats/Penthouses. We request him to inspect the premises and then improve the bid, if possible. He promises to do so, but he prays for two weeks' time to inspect the premises before making any further offer. Let this matter come up on 8.8.06. M/s Scotts Plantations (Pvt) Ltd. will inform this Court their final offer for the 11 Flats/Penthouses in question .

The counsel for the appellant states that Mr. Patil who was the Development Manager of the Company is also in occupation of Penthouses. According to him, he was illegally occupying those penthouses taking advantage of his position as Manager of the Company. He is directed to provide necessary particulars to the Special Officer. The Special Officer will enquire into the matter

:10:

and report to this Court as to whether any steps are to be taken against Mr. Patil

to get the premises vacated. An advertisement has already been issued inviting

bids for these flats. However, if more offers are received the Special Officer will

place them before the Court on the next date. We have received two bids so far.

The two bidders may also be informed that if they wish to improve their bid they

may appear before this Court on the next date.

IA.No.36/2005:

The claim of the Special Officer is that the Punjab and Sind Bank,

Jabalpur was illegally withholding Rs.2.65 crores which it ought to have remitted

to the Special Officer. Ultimately the amount was paid on 9/5/06. According to

the Special Officer the date of receipt of the said fixed deposit was 15.2.2005,

therefore, the Bank may be directed to pay interest for the period 15.2.05 till the

date of payment.

On the other hand, the learned counsel for the Bank submits that the

amount kept in fixed deposit really represented the margin amount for furnishing

bank guarantee on behalf of the appellant company in a litigation at Pune. The

appellant company never returned the original bank guarantee bond nor

furnished the discharge certificate to enable the bank to make payment on

the date of maturity. Thereafter the amount was not kept in the fixed deposit.

Therefore, the bank is not liable to pay interest as claimed by them.
Having

regard to the facts and circumstances of the case, we are of the view that it may

not be fair to the bank to call upon it to pay interest at the rate payable on the

fixed deposit. However, since the bank retained the amount from 15.2.05 to 9.5.06,

it should be directed to pay interest at the same rate at which interest is paid on

deposit in savings bank account. We, therefore, direct that on the sum of

Rs.2,57,53,563/- the bank shall calculate the interest payable at the rate payable on

savings bank deposit, and pay the same for the period from 15.2.05 to 17.4.06

(15.2.05 being the date on which the demand draft was prepared) and pay the

amount within three weeks from today.

This matter stands disposed of by these directions.

Item No. 4(a) of the 17th

Statutory Report

Only one offer has been received from Ms. Anjali Tamhane for the

residential flat at Golden Height, Mumbai. We shall consider this offer on the

next date of hearing, i.e., 8th August, 2006. However, Ms. Anjali Tamhane may be

informed that if she is willing to increase her bid she may do so before the next

date of hearing. Since, the property in question has been advertised twice, we are

not inclined to advertise it again. But if any further offer is to be made the same shall be submitted so as to reach the Special Officer by 6th August, 2006.

:12:

Item No. 4(b) of the 17th Status Report

An offer has been received from one M/s. Shantilal D-Marua & Others for the premises of Laxmi Commercial Complex 2nd, 3rd and 5th floor. We shall consider this offer on the 8th August, 2006. M/s. Shantilal may be informed that in case they wish to improve their bid they may do so, but the improved bid if any should be received by the Special Officer by the 6th August, 2006. In case they wish to appear before this Court to represent their case they may do so either in person or through counsel. Since only one bid has been received, we may entertain any other bid made by any other party provided the bid made is communicated to the Special Officer on or before 6th August, 2006.

Item No. 4(C) of the 17th Status Report

This item relates to three properties for which bids have been received. However, the parties have increased their bids and therefore the matter may have to be considered on a later date. We shall consider the same on the

next date of hearing, i.e., 8th August, 2006. Any of the parties who have tendered their bid, or who wish to make an offer, may do so by the 6th of August, 2006 communicating to the Special Officer their offer. The persons who have already submitted their bids may also be informed so that they may also improve their bid if they are so advised. We are informed that M/s. Sukrit Builders are offering Rs. 99.33 lakhs for the three properties. Counsel appearing on behalf of Mr. Anil Bhatewara states that he is authorised to raise his bid to Rs. 1 crore and 1 lakh for the three properties. We shall consider all the offers on the next date.

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Item No. 5 of the 17th

Status Report

This item relates to 7 properties which have been advertised for sale but no bids have been received. The Special Officer is directed to send a list of all these properties together with necessary particulars to all the bidders/participants who have bid or participated in relation to the sale of other properties, so that they may consider making a bid in respect of these properties as well. Advertisement may also be issued in a local daily having wide circulation in the area in the State of Madhya Pradesh for properties at Sl. No. 1 to 6 and advertisement may also be issued in a local daily newspaper having wide circulation in the area in the State of West Bengal in respect of property at Sl. No. 7 under this item.

Item No. 6 of 17th

S
tatus Report

This item relates to Golaghata property, Kolkata. This property has

not been advertised. Counsel for the appellant states that the full price for the flats in question has been paid to the developer. However, no document of

transfer is available with the company. He submits that since the company has a

Special Power of Attorney from the promoters/developers to sell the flats, there

should be no difficulty in transferring these flats. In these circumstances, we

direct the Special Officer to inform the promoters/developers, namely, M/s.

Deepti Promoters Pvt. Ltd/Girdhari Promoters (P) Ltd. to appear before this

Court on 8th August, 2006 when we shall consider this matter further.

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Item NO. 7 of the 17th

Status Report

Be taken up on 8th August, 2006.

Contempt Petition (C) No. 389/2004 in C.A. No. 5168/2000

Put up on 8th August, 2006.

(Usha Bhardwaj)
m)

Court Master
er

(Ajay Kr.Jain)

Court Master

(Rajesh Dha

Court Mast

