

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

IA 38/2006 in CIVIL APPEAL NO. 5168 OF 2000

SANCHAYANI SAVINGS INVESTMENT(I) LT.&ORS

Appellant (s)

VERSUS

STATE OF WEST BENGAL & ORS

Respondent(s)

(For directions)

Date: 21/03/2006 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.P. SINGH

HON'BLE MR. JUSTICE ALTAMAS KABIR

For Appellant(s)

Mr. S.V. Deshpande, Adv.
Mr. G.K. Bansal, Adv.
Mr. Ashu Bhatia, Adv.
Mr. Nimish Gupta, Adv.

For Applicant(s)

Mr. Arun Jaitley, Sr. Adv.
Mr. Dhruv Dewan, Adv.
For M/S Suresh A. Shroff & Co., Advs.

For Special Officer

Mr. L. Nageswara Rao, Sr. Adv.
Mr. C.K. Sasi, Adv.

For Respondent(s)

Mr. Soli J. Sorabjee, Sr. Adv.
Mr. T.Raja, Adv.
Mr. Rana Mukherjee, Adv.
Mr. Siddharth Gautam, Adv.
Mr. Goodwill Indeever, Adv.
Mr. Ramesh Babu M.R., Adv.
Ms. Manisha Singh, Adv.
Mr. Shrinjoy Banerjee, Adv.
Ms. Hema Sahu, Adv.
Mr. C.L. Sahu, Adv.
Mr. Deba Prasad Mukherjee, Adv.
Mr. D. Mahesh Babu, Adv.
Mr. G.K. Bansal, Adv.
Ms. Indra Sawhney, Adv.
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.

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Mr. Rajesh Srivastava, Adv.
Mr. Ajay Choudhary, Adv.
Mr. A.N. Bardiyar, Adv.
Mr. G.S. Chatterjee, Adv.
Mr. B.S. Banthia, Adv.
Mr. Arun K. Sinha, Adv.
Mr. Ugra Shankar Prasad, Adv.
Mr. P.V. Dinesh, Adv.
Mr. Shivaji M. Jadhav, Adv.

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

Heard learned counsel for the parties.

Mr. Soli J. Sorabjee, learned Senior Advocate appearing on behalf of Mr. Ravi Vijaya Sarathi, the auction purchaser in the execution proceeding, who had bid a sum of Rs.3.10 crores for the Bangalore property and deposited the same on 16th August, 2003, submits that the auction sale is not vitiated by fraud and, therefore, in normal course his client, who was the highest bidder in the auction sale, is entitled to the property. Mr. Arun Jaitley, learned Senior Advocate appearing on behalf of the applicant M/s. Sukrut Realtors, submits that so far as his client is concerned it has obtained a decree for a sum of Rs.2 crores, which represents the amount due to his client, who is the builder of the building, and whose bills have remained outstanding.

On the other hand, the Special Officer informs us that in the 15th Report submitted in October, 2005 mention was made of three offers made for the said building of Rs.6.85 crores, Rs.7 crores and Rs.7.25 crores.

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Having regard to the peculiar facts and circumstances of the case, and also having regard to the equities which have to be balanced, and the interest of the depositors which has to be safeguarded, we are of the view that in the first instance the Special Officer shall direct the three parties who have made the offers to him to appear before this Court and to produce a demand draft for

a sum of Rs.5 crores each, in case they are serious about the offer made by them. This will test their bonafide. They will bring demand draft for the sum of Rs.5 crores favouring the Registrar General of this Court to prove their bonafide. In case they do not do so, we shall presume that they are not interested in pursuing the matter any further.

If such offers are made we shall consider how the equities are to be balanced. The client of Mr. Arun Jaitley and Mr. Soli J. Sorabjee are willing to match higher offers, if made. Mr. Sorabjee submits that since a sum of Rs.3.10 crores has been deposited by his client on 16th August, 2003, a special equity arises in his favour and that has to be suitably worked out. We shall keep that in mind while disposing of this application.

Let this IA No.38 of 2006 come up on 4th April, 2006, on which date the persons who have made offers to the Special Officer, shall also be present in the Court either in person or through representative, with demand draft of Rs.5 crores as earlier directed. The Special Officer shall inform them of this order forthwith.

(A.D. Sharma)
Court Master

(Vijay Dhawan)
Court Master