

ITEM NO.1

COURT NO.10

SECTION XVI

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 & intervention and impleading party and Directions and permission

to submit additional document(s), clarification/modification of Court's order and office report))

With I.A.No....(Appln. For Directions)

WITH CONMT.PET.(C) NO. 389 of 2004

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

Date: 26/04/2005 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.P. SINGH

HON'BLE MR. JUSTICE ARUN KUMAR

For parties:

Mr. S.V. Deshpande, Adv.

Mr. Deba Prasad Mukherjee, Adv.

St.of W.B.

Mr. Rana Mukherjee, Adv.

Mr. Siddharth Gautam, Adv.

Mr. Goodwill Indeevar ,Adv.

Mr. D. Mahesh Babu ,Adv.

RBI

Mr. Ramesh Babu M.R. ,Adv

Ms. Manisha Singh, Adv.

Mr.Srinjoy Banerjee, Adv.

Mr.Shanta Pandey, Adv.

For contemnor

In IA 7

Mr. Sanjay Bansal, Adv.

Mr. G.K. Bansal ,Adv.

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

Mr. Mohd.A.Siddqui, Adv.

Mr. Aman Usman, Adv.

Mr. Mohd. Jamal Nasir, Adv.

Ms. Indra Sawhney ,Adv.

Mr. S.N. Bhat,Adv.

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Mr. Abhith Kumar, Adv.

IA17

Mr. Ajit Kumar Pande, Adv.

Mr. Prashant Kumar ,Adv.

Mr. Mukesh K. Giri ,Adv.

for the applicant

Mr. Makarand D. Adkar, Adv.

Mr. Vishwajit Singh ,Adv.

Mr. Varinder Kumar Sharma, Adv.

Mr. Ashiesh Kumar ,Adv.

Ms. Suparna Srivastava, Adv.

Mr. Rahul Srivastava, Adv.

St.of Chhattisgarh

Mr. Rajesh Srivastava, Adv.

Mr. Ajay Choudhary, Adv.
Mr. K.Parasasran, Sr. Adv.
Mr. T.Raja ,Adv.
Mr. C.K. Sasi, Adv.
Mr.G.S. Chatterjee, Adv.
Mr. P.P. Tripathi, Sr. Adv.
Mr. Manu Nair, Adv.
Mr. Dhruv Dewan, Adv.
for M/S Suresh A. Shroff & Co. ,Adv.

For the applicant
in IA.27

Mr. Dinesh Dwivedi, Sr. Adv.
Mr. Atyab Siddiqui, Adv.
Mr. Arun K. Sinha, Adv.
Mr. Rakesh Singh, Adv.

For Respondent(s)
for applicant
(Verona Commercial
Credit Invest.
Co.Ltd.)

Mr. Raj Kumar Gupta, Adv.
Mr. Sheo Kumar Gupta, Adv.
Mr. Bhanu Pratap Gupta, Adv.
Mr. A.N. Bardayar, Adv.

Ms. Hema Sahu, Adv.
With Mr.C.L. Sahu, Adv.
Mr.S.K. Bandyopadhyay, Adv.

UPON hearing counsel the Court made the following

O R D E R

List the matter on Tuesday, i.e. 3rd May, 2005. To be listed as first item (part-heard).

We have heard Mr. Nageshwar Rao, on behalf of the Special Officer, Mr. Anoop

Chaudhary, senior advocate appearing on behalf of Mr. Sudipto Sen, Mr. Rahul Srivastava,

advocate for the State of Chattisgarh.

It appears that there are some matters which relate to the State of Madhya Pradesh.

We, therefore, issue notice to the Chief Secretary of the State of Madhya Pradesh to enter

appearance on behalf of the State of Madhya Pradesh through his counsel to assist this Court.

Having heard counsel for the parties, we feel that for more effective disposal of this matter, the

following directions must be issued:

1. The Superintendent of Police, Ambikapur, Mr. Lal Umed Singh, who has

submitted his report before this Court, is directed to be present in this Court

to answer questions in connection with the investigation of the case;

2. The City Superintendent of Police, Jabalpur to be present on 3rd May, 2005

and he must come prepared to record the statement of Mr. Sudipto Sen, if considered necessary.

From the material placed before us so far, there appears to be some doubt about the

sale transaction relating to two plots of land in Jabalpur, namely - Mouza Kheri S.No.570 P.C. No.17

R.1 Circle Maharajpur and the other Khasra No.159/1, Land Revenue RO/C.No.323473 area 1.610

hectores, Khasra No.160/1 in Maharajpur, district Jabalpur. Mr. Sudipto Sen states that he has

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never executed a power of attorney in favour of Mr. Qadri. His counsel Mr. Anup Chaudhary

submits before us that on a mere examination by the naked eye it would be obvious that the

signatures appearing on the power of attorney are not genuine signatures of Mr. Sen. The opinion

obtained from a private hand-writing expert according to him, is not reliable. We notice that in our

order we had directed the police authorities to take sample signatures of Mr. Sudipto Sen from the

Registry of this Court and to get signatures compared by the experts of Sagar Forensic Laboratory,

but for reasons not known to us, that has not been done on the pretext that Mr. Sen did not appear

before the S.P. on the date specified by this Court.

With a view to protect the said property, we direct the Magistrate and the

Superintendent of Police, Jabalpur to immediately take over the possession of aforesaid plots of land

and hand over possession to the Special Officer appointed by this Court. The property shall be held

custodia-legis and no interference by any third party should be permitted. The authorities shall see

to it that unauthorised encroachments if any, on that property are removed.

We may only briefly state at this stage that we are not happy with the manner in which

the police authorities in the State of Chattisgarh and in the State of Madhya Pradesh have

conducted themselves. The police authorities at Ambikapur have really not carried out orders of

this Court and have merely submitted a formal report before this Court without a critical scrutiny of

the evidence collected in the course of the investigation, and without even examining relevant

witnesses. The police authorities at Jabalpur have not cared to get the signatures compared as

directed by this Court. If this attitude persists, we may have to take strong action against the police

authorities, if necessary.

IAS 26 & 28

The applicant in these IAs has been impleaded as a party in the proceedings before this

Court. His grievance is that in a court sale, he purchased the property in question on 16.8.2003

which is located on Infantry Road, Bangalore. We are informed by Mr. Rao, counsel appearing on

behalf of the Special Officer that the area of the land is about 18,720 sq.ft. and the built up area is

about 56,160 sq.ft. The said property has been sold for a sum of Rs.3.10 crores. Mr. Prasaran,

learned senior counsel appearing on behalf of the applicant states that his client had purchased the

property in court sale and has also deposited the consideration amount.

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Mr. Rao appearing for the Special Officer submits that an application for setting aside

the sale has been filed by the Special Officer before the Executing Court and the said application is

still pending. In these circumstances, we pass the following order:

The application filed by the Special Officer
for setting aside sale shall be considered by the Executing Court,
which may pass appropriate orders. Nothing said in this order shall
be considered as expression of opinion on the merit
of the said
application. In the meantime, if good offers are received for
sale of
the said property, negotiations may continue but no sale deed
shall
be executed without the permission of this Court.

Liberty to the parties to apply/move a fresh application.

The aforesaid IAS 26&28 are disposed of.

IA 30

Issue notice.

Mr. Rao, learned senior counsel on behalf of the Special Officer accepts notice. Let a

copy of the IA be also handed over to Mr. Anup Chaudhary, senior counsel.

In this application the applicant Dr. Ladhawala states that he was a tenant of the

premises at 16/3 first floor Kirol, M.G. Road, Ghatkopar (West) Mumbai where he was running a

hospital. He closed down the hospital on account of reasons beyond his control and then gave the

premises to Sanchayani Savings Investment (I) Ltd. on leave and licence basis. According to the

applicant, the monthly licence fee payable was Rs.93,420/-. In addition to the licence fee, the licensee

was also required to deposit with the applicant a sum of Rs.14 lakhs free of interest. The licensee

also advanced two loans to the applicant, the first of a sum of Rs.25 lakhs with interest @ 20 % P.A.

and the second of Rs.17 lakhs with interest @ 36% P.A. This agreement is dated 22.12.1993.

The grievance of the applicant is that no license fee was paid by the licensee and

pursuant to the order passed by the prescribed authority under the M.P.I.D. Act on 23.3.2002 the

property was sealed in the month of March, 2002. An application was made by the applicant before

the Designated Court for release of the property in favour of the applicant but the said application

has been disposed of by the court directing that the premises may be reopened and handed over to

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the applicant but on the condition that he pays a sum of Rs.56 lakhs which have been advanced to

him. The applicant moved the High Court but in view of this matter pending before this Court, the

High Court did not pass any effective order.

According to Mr. Tripathi, learned senior counsel, the applicant is willing to sit down

with the Special Officer and submit accounts so that the matter may be settled. He states that at license

fee due to him may be adjusted against interest payable by him so that whatever is found payable

either to or by the applicant is paid and possession handed over to the applicant.

Mr. Rao, senior counsel states that he will look into the matter and make his

submissions on the next date. In the meantime, counsel for the parties will put their heads together

and work out the arithmetic.

IA 27

This is an application for impleadment of the employees of the company in

question, who allege that their provident fund dues on retirement, salary, etc. remains unpaid.

Mr. Rao appearing for the Special Officer states that the Special Officer shall file his reply

within six weeks. Rejoinder, if any, within two weeks thereafter.

(Sheetal Dhingra)

(Anand Singh

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Court Master

Court Master