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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. 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 impleadment and direction/clarification of Court's Order dated.6.2.2004 ad intervention and clarification of Court's Order and permission to file addl. documents and office report)

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

(With permission to submit additional document(s))

(With office report)

Date: 11/02/2005 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.P. SINGH

HON'BLE MR. JUSTICE ARUN KUMAR

Mr. Bishwaroop Chakroborthy, Adv.

Mr. D. Mahesh Babu, Adv.

For Special Officer

Mr. L.Nageshwara Rao, Sr.Adv.

Mr. C.K. Sasi, Adv.

For Impleading Applicant

Mr. Soli J. Sorabjee, Sr.Adv.

Mr. T.Raja, Adv.

For Noticee

Mr. Ranjit Kumar, Sr.Adv.

Mr. Ajay Choudhary, Adv.

Mr. Rajeev Shankar Dwivedi, Adv.

Mr. Arun Kumar Misra, Adv.

For State of W.B.

Mr. Rana Mukherjee, Adv.

Mr. Siddharth Gautam, Adv.

Mr. J. Kar, Adv.

Mr. Goodwill Indeevar, Adv.

Mr. Mukesh K. Giri, Adv.

Mr. Vishwajit Singh, Adv.

Mr. Ashiesh Kumar, Adv.

Mr. Ajit Kumar Pande, Adv.

Mr. Abhishth Kumar, Adv.

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UPON hearing counsel the Court made the following

O R D E R

I.A. No.25 in Civil Appeal(C) No.5168 of 2000

Mr. Soli J. Sorabjee, learned Senior Counsel appearing

on behalf of the applicant Ravi Vijayasarathy submits that in the

Order dated 16.12.2004, while dealing with I.A. Nos. 21 and 22 of

2004, this Court made certain directions with regard to a

property known as Sanchayani Bhawan located at 30, Infantry Road,

Bangalore. He submits that in a Court auction held on 16.8.2003

the applicant was the highest bidder whose offer of Rs.3.10

Crores was accepted. Subsequently, the sale was confirmed. The

Judgment Debtor appealed against the said order. The said appeal

was withdrawn on 23rd November, 2004. He submits that in respect

of the said property a direction has been made by this Court that

the same may be included in the advertisement for sale along with

other properties. His grievance is that he being the purchaser in

a Court auction, was not heard before the Order was passed. He,

therefore, prays that applicant may be impleaded as a party respondent in this proceeding.

The application is not opposed. I.A. No.25 is allowed and the applicant impleaded as a party respondent.

Counsel submits that he will be filing a further affidavit along with documents in support of the application for modification of the aforesaid order of this Court. He may do so

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within two weeks from today serving a copy thereof on the other parties who may, if so advised, file their reply within two weeks thereafter. A rejoinder affidavit, if any, may be filed within one week thereafter.

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Pursuant to our Order dated 16.12.2004
the

Superintendent of Police, Jabalpur got the matter investigated

and has submitted a comprehensive report detailing the outcome of the investigation. From the report it appears that a criminal case has been registered on the complaint made by Mr. Sudipto Sen pursuant to F.I.R. No.177 of 2004. The matter has been investigated. It is pointed out in the report that the investigating team has not been able to contact Mr. Sudipto Sen despite their best efforts. The report further discloses that the purchasers of the two properties in question have been contacted and they have asserted that pursuant to general Power of Attorney executed by Mr. Sudipto Sen in favour of Sayeed Faruk Pasa Quadri, the sale deeds were executed by the aforesaid attorney and that they have actually paid the consideration to him. It is further stated in the report that the investigating team had visited the house of the aforesaid Syeed Faruk Pasa Quadri at Hyderabad but he could not be found at his residence and the investigating officer was told by his widowed mother that Mr. Quadri is not in contact with the family for the last two years. It, therefore, appears that Mr. Quadri has

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not been found by the investigating team though the investigation reveals that there is in fact a person by that name. Efforts are being made to find him out. The reports in this regard are expected from the concerned officers from Mumbai and Hyderabad. The report also refers to the opinion of the handwriting expert who examined the signature of Mr. Sudipto Sen on the general Power of Attorney dated 12.12.2001 and tallied the same with the specimen signatures of Mr. Sudipto Sen. The report is to the effect that the signature appearing on the general Power of Attorney is that of Mr. Sudipto Sen. The opinion of the handwriting expert was obtained by Mr. T.R.Deshmukh, President of the Upbhokta Association, Indore who had requested the handwriting expert to give his opinion. The investigation is not complete. The Superintendent of Police, Jabalpur is granted

further time to continue with the investigation and submit his report within eight weeks from today.

However, we direct Mr. Sudipto Sen to appear before the Superintendent of Police, Jabalpur on 28th March, 2005. The investigating officer will record the statement of Mr. Sudipto Sen in the presence of Superintendent of Police, Jabalpur, because Counsel for Mr. Sudipto Sen submits that Mr. Sudipto Sen apprehends that the investigating officer may not be impartial.

The police will also collect the sample signatures of Mr. Sudipto Sen and if so requested, the Registry of this Court will

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supply photocopies of the sample signatures of Mr. Sudipto Sen appearing on the record of this Court in this proceeding. This is apart from sample signatures which may be collected from any

other reliable source. For the purpose of examining the signatures, the Forensic Science Laboratory at Sagar be requested to give its opinion. The opinion of the Sagar Laboratory shall be forwarded to this Court with the next report of the Superintendent of Police, Jabalpur. The statement of the purchasers as recorded by the investigating officer is to the effect that the entire amount was paid to the general Power of Attorney namely Mr. Quadri. An affidavit has been received by the police purporting to be an affidavit of Mr. Quadri stating that he had executed the sale deeds in favour of the purchasers in his capacity as general Power of Attorney of Mr. Sudipto Sen. The affidavit further states that the sale price received by the deponent was handed over to Mr. Sudipto Sen. The police has yet to verify whether the aforesaid affidavit purported to be one affirmed by Mr. Quadri is really an affidavit affirmed by him. Since the matter is being investigated by the police we wish to make no observation at this stage. We further direct the Superintendent of Police, Jabalpur to take all necessary

precautions so as to satisfy himself that the investigation is impartial. If at any stage we find that the investigating officers are not acting impartially and fairly, we will take strong action against them.

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Tenth Status Report submitted by the Special Officer is placed before us.

It appears that pursuant to the order of this Court the Special Officer and Mr. Sudipto Sen met in the office of Mr. Ranjit Kumar, Senior Advocate on 15.1.2005 and the list of properties has since been verified. A final list of 145 properties has been prepared by the Special Officer which has been annexed to the report as Annexure 'A'. Certain matters however, in regard to some of the properties have to be clarified which points have been enumerated in the Status Report. We direct

the Special Officer and Mr. Sudipto Sen to have a joint investigation of the properties and verify the details of the properties, their user etc. to which reference has been made in the Report. Such particulars as are in the knowledge of Mr. Sudipto Sen will be furnished by him to the Special Officer.

One difficulty faced by the Special Officer is that he has only a few title deeds in his possession. Counsel for Mr. Sudipto Sen submits that the title deeds relating to the remaining properties can be traced out and his client will give full assistance to the special officer in tracing out the title deeds from the Divisional Officers etc. We direct Mr. Sudipto Sen to render full cooperation in tracing out the remaining title deeds.

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In case it is not possible to trace out some of the title deeds, it will be open to the Special Officer to secure certified copies thereof from the concerned Sub-Registrar's

Office to facilitate sale of such properties.

So far as house property at CE-32, Salt Lake, Calcutta is concerned, it is stated by Counsel appearing on behalf of Mr.

Sudipto Sen that this property is not owned by SSIL. It is a rented premises owned by Jyotimayee Majumdar who is still alive.

Counsel states that Mr. Sudipto Sen will produce the landlord before the Special Officer and the Special Officer will

thereafter verify the truthfulness of the assertion that the property does not belong to SSIL or to Mr. Sudipto Sen, and that

it is rented premises belonging to Mr. Majumdar. The Special Officer will thereafter submit a report to this Court.

So far as the direction of this Court concerning the examination of the records of the Company with the help of a

Senior Accountant is concerned the name suggested by Price

Waterhouse Cooper is not acceptable to Mr. Sudipto Sen because of

the association of the nominated person with the Special Officer.

We do not wish to go into this question. We shall nominate a suitable person to carry out this work without asking for the concurrence of the parties before us. After making our inquiry we shall issue appropriate direction on a date to be notified later.

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The Status Report relating to sale of properties is to the effect that properties 1 and 2 will have to be re-advertised as no tender was received in response to the advertisement. Let that be done. So far as remaining properties are concerned, after taking all necessary steps the Special Officer may advertise, by a single advertisement, all properties which are located in a particular city instead of issuing separate advertisements for each property. This will save huge advertisement cost.

So far as Sanchayani Housing at Panaji is concerned, the suggestion made in the Report is accepted. If the owners of the property are willing to execute the conveyance deed in favour

of the nominee of SSIL, the same may be reported to this Court.

So far as Sanchayani Bhawan at 30, Infantry Road, Bangalore is concerned, this matter will be taken up when we consider I.A. No.26 of 2005 which is an application filed by the auction purchaser Ravi Vijayasarthi.

Counsel appearing on behalf of the State of Chattisgarh states that as he has not been able to get in touch with Lal Umed Singh, City Superintendent of Police, Ambikapur, he requires some more time to verify the result of the investigation carried out by him. We grant State of Chattisgarh three weeks' time to file the report before this Court.

So far as sale of vehicles is concerned, the Status Report discloses that six two-wheelers have been taken possession of by the Special Officer. The Special Officer may take steps to

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dispose of those vehicles for the best price that they can fetch.

So far as list of vehicles contained in Annexure 'J' is concerned, the Special Officer will have to go to police stations and find out why the vehicles are kept in the police stations. If those vehicles can be got released by the special officer he may make efforts to do so, otherwise he will submit to this Court the result of the inquiry made by him from the different police stations. Thereafter we shall pass necessary directions. Mr. Sudipto Sen will assist the Special Officer in tracing out the records which may contain the particulars of the vehicles owned by the Company. The Special Officer will also make an inquiry through M/s Richi Motors, Bhawani Pur and ascertain the number of vehicles sold through the said firm and the sale price received in respect thereof. He will also verify from the said firm the name of the person on whose request the vehicles were sold.

With regard to Item Nos.6 to 11 of the Status Report we shall give further directions on 4th March, 2005.

The Special Officer is directed to prepare an inventory of all the blank deposit certificates of the Company lying in

different offices of the Company and thereafter keep them in a

sealed box. If some of the blank certificates have been seized by

the police, another inventory thereof may be made with the help

of the police authorities.

(SUKHBIR PAUL KAUR)

(ASHA JOSHI)

COURT MASTER

ASSTT. REGISTRAR