

ITEM NO.1

COURT NO.8

SECTION XVI

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

I.A. Nos. 20, 72-74, 122, 123-124, 125-128

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, impleadment and intervention and impleadment
as party respondent and office report)

WITH

Contempt Petition (Civil) No. 389/2004 in C.A. No. 5168/2000
(with appln.(s) for permission to submit additional document(s)
and office report)Date: 29/02/2012 These IAs in the Appeal we called on
for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.M. LODHA
HON'BLE MR. JUSTICE H.L. GOKHALE

Counsel for the parties

Mr. Ajay Choudhary, Adv.

Mr. Sanjay Bansal, Adv.
Mr. G.K. Bansal, Adv.Mr. Pallav Shishodia, Sr. Adv.
Mr. Aman Vachher, Adv.
Mr. Ashutosh Dubey, Adv.
Mr. Dhiraj, Adv.
Ms. Vriti Anand, Adv.
Mr. P.N. Puri, Adv.

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Mr. Ashok Mathur, Adv.
Mr. Ashish Sethi, Adv.
Mr. Ugra shankar Prasad, Adv.

Mr. Deba Prasad Mukherjee, Adv.

Mr. Abhijit Sengupta, Adv.

Mr. Ramesh Babu M.R., Adv.
Ms. Swati Setia, Adv.
Ms. Manisha Singh Nair, Adv.Mr. Manish Pitale, Adv.
Mr. Wasi Haider, Adv.
Mr. C.S. Ashri, Adv.

Mr. P.S. Sudhir, Adv.

Mr. V. Giri, Sr. Adv.

Mr. C.K. Sasi, Adv.

Mr. Mohammad Sadique, Adv.

Mr. Sushrut Jindal, Adv.

Mr. Kunal Verma, Adv. (not present)

Mr. Vishwajit Singh, Adv.

Mr. Gaurav Jain, Adv.

Ms. Abha Jain, Adv.

Mr. S. Wasim A. Qadri, Adv.

Mr. B.K. Prasad, Adv.

Mr. Atul Jha, Adv.

Mr. D.K. Sinha, Adv.

Mr. Shivaji M. Jadhav, Adv.

Mr. Vikas Upadhyay, Adv.

Mr. B.S. Banthia, Adv.

Mr. Anip Sachthey, Adv.

Mr. Mohit Paul, Adv.

Ms. Shagun Matta, Adv.

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UPON hearing counsel the Court made the following

O R D E R

Interlocutory Applications Nos. 72-74

Claim of the applicant in respect of the subject flat situated at Pune has not been accepted by the adjudicator.

We wanted to know from Mr. Pallav Shishodia, learned senior counsel for the applicant, whether any evidence has been led by the applicant before the adjudicator about the authority of Bhudeb Chandra Sen who is stated to have entered into an agreement of sale in respect of the subject flat on behalf of the Company with Issac Hussain Pathan.

Learned senior counsel was not able to show any such evidence. We also wanted to know from the learned senior counsel whether Issac Hussain Pathan has been examined by the applicant before the adjudicator. His answer was that

Issac Hussain Pathan was not available. The applicant claims to be purchaser of the subject flat from the transferee of the transferee of Issac Hussain Pathan.

Nothing is established on record that Issac Hussain Pathan

ever acquired legal and valid title in respect of the said flat from the Company.

The view of the Adjudicator does not call for any interference.

Interlocutory Application Nos. 72-74 for impleadment, direction and stay respectively are, accordingly, rejected.

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In case the applicant does not vacate the subject premises peacefully and fails to hand over possession to the Special Officer within one month from today, the direction given in para 16 by the Adjudicator in his order dated November 17, 2011 shall come into operation.

Interlocutory Application No. 122

This application is at the instance of Sanchayani Abikarta Avem Upbhokta Association. The following prayers have been made :

- "i. This Hon'ble Court may be pleased to direct Sh. Sudipto Sen Managing Director SSIL to hand over data/hard disk maintained by the company, of all the servers including the A.S.U. 400 I.B.M. Server which contain complete details of the depositors and their claims.
- ii. To direct special officer to start disbursing the payment of claims to the second and third category depositors on the basis of the acknowledgment and the affidavits/indemnity bonds.
- iii. Any other orders which this Hon'ble Court may deem fit and necessary in the circumstances of this case.

In para 6 of the application, three categories of the

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depositors have been set out, namely, (1) the depositors who directly submitted their claims with the original papers after the date of maturity or unmaturred claims; (2) the

depositors who had submitted their claims with the Company, namely, Sanchayani Saving and Investment (J) Ltd. and are now holding only an acknowledgement, and (3) the deposits who are the agents of the company who had satisfied the claims of the depositors out of their own funds, against the indemnity bonds or affidavits.

Mr. Sanjay Bansal, learned counsel for the applicant, submits that the prayers in the application are confined to second and third categories of the depositors. However, we find that the details of the depositors of second category and third category have not at all been given in the application. We are satisfied that no roving and fishing enquiry into the claims of the so-called second and third category depositors can be permitted. Unless specific details are submitted by the applicant, there is no question of directing any enquiry.

Confronted with this, learned counsel for the applicant prays for some time to place on record the complete details of the depositors of second and third categories respectively.

We grant eight weeks time for the purpose.

List I.A. No. 122 after eight weeks.

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Interlocutory Application Nos. 123-124

Impleadment of applicant - Pravin Ram Navalkar - is granted.

In para 7 of the order dated December 8, 2011, the Enquiry Authority has recommended that the Special Officer can be permitted to execute the sale deed in respect of the Row House No. 8, Sanchayani Prestige, Swavalambi Nagar, Nagpur on the applicant depositing a sum of Rs. 5,75,000/- with interest at the rate of 14% per annum from September 11, 1995 till the payment of the said amount to the Special Officer.

Mr. P.V. Sudhir, learned counsel for the applicant, submits that in other cases the interest at the rate of 12% per annum has been awarded and there is nothing extraordinary in the present case that justifies interest at the rate of 14% on the due amount.

Mr. V. Giri, learned senior counsel, has left the matter to the Court.

Having regard to the submission of the learned counsel for the parties, we are satisfied that on depositing a sum of Rs. 5,75,000/- with interest at the rate of 12% per annum from September 11, 1995, the Special Officer shall execute the sale deed in respect of the subject property without any delay. The time given by the Enquiry Officer in ⁷ para 8 shall be reckoned from today.

I.A. Nos. 123-124 stand disposed of.

Interlocutory Applications Nos. 125-127

Impleadment of applicant - Kalobaran Banerjee - is granted.

The Enquiry Officer is requested to look into the genuineness of the applicant's claim in respect of the flat No. G-103, Sanchayani Prestige Complex, Nagpur and submit his report as early as may be possible.

Interlocutory Application No. 128

Nobody appears for the applicant.

Application is dismissed accordingly.

Interlocutory Application No. 20

Affidavit of applicant Ashok Rane dated April 22, 2004 is taken on record.

The Special Officer is directed to respond to that affidavit within eight weeks from today.

List I.A. No. 20 after eight weeks.

Interlocutory Application Nos. 83-92

The order dated November 1, 2011 is self operative and we direct that the Special Officer shall act according to that order.

Needless to say that if the stage as observed in para 8

(iv) of the order dated November 1, 2011 has reached, it will be open to the Special Officer to seek the help of police authorities and remove the occupants from the concerned flat/s.

33rd Status Report

33rd Status Report of Special Officer stands over for eight weeks.

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

Mr. Sanjay Bansal, learned counsel for the petitioner, prays for some time for filing additional affidavit in support of the Contempt Petition. He may do so within eight weeks.

Let Contempt Petition be also listed for consideration after eight weeks.

(Rajesh Dham)
Court Master

(Renu Diwan)
Court Master