

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 impleading party, directions, permission to submit additional document(s), intervention/impleadment, c/delay in filing objections, clarification/modification of Court's order, intervention, exemption from filing O.T. of annexures and office report)

With Cont. Pet. (C) No.389/2004 in Civil Appeal No.5168/2000  
(With appln(s) for permission to submit additional documents and office report)

I.A. No.70 in Civil Appeal No.5168/2000  
(For directions)

Date: 08/10/2009      These Matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.N. AGRAWAL  
HON'BLE MR. JUSTICE G.S. SINGHVI

For Appellant(s)

Mr. Ugra Shankar Prasad,Adv.

For Petitioner(s)

Mr. Jitender Sharma,Sr.Adv.  
Mr. Sanjay Bansal,Adv.  
Mr. P.N. Jha,Adv.  
Mr. G.K. Bansal,Adv.

For Respondent(s)

Mr. Deba Prasad Mukherjee,Adv.  
  
Mr. Rana Mukherjee,Adv.  
Ms. Anasuya De Biswas,Adv.  
Ms. Sunaina Kumar,Adv.  
Mr. Goodwill Indeevar,Adv.  
  
Mr. D. Mahesh Babu,Adv.

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Mr. Ramesh Babu M.R.,Adv.  
Ms. Manisha,Adv.  
Ms. Srinjoy,Adv.  
Ms. Swati Setia,Adv.

Mr. Jitender Sharma,Sr.Adv.  
Mr. Sanjay Bansal,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.

Mr. Rajesh Srivastava, Adv.

Mr. Ajay Choudhary, Adv.

Mr. T. Raja, Adv.

Mr. T.A. Khan, Adv.

Mr. S.N. Terdal, Adv.

Mr. D.S. Mahra, Adv.

Mr. L.N. Rao, Sr. Adv.

Mr. C.K. Sasi, Adv.

Mr. G.S. Chatterjee, Adv.

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

Mr. Vikas Upadhyay, Adv.

Mr. B.S. Banthia, Adv.

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Mr. Arun K. Sinha, Adv.

Mr. C.L. Sahu, Adv.

Mr. Ugra Shankar Prasad, Adv.

Mr. P.V. Dinesh, Adv.

Mr. Shivaji M. Jadhav, Adv.

Mr. V.N. Raghupathy, Adv.

Mr. Gaurav Agrawal, Adv.

Mr. Lakshmi Raman Singh, Adv.

Ms. Sharmila Upadhyay, Adv.

Mr. Venkateswara Rao Anumolu, Adv.

Ms. Nanita Sharma, Adv.

Mr. Manish Pitale, Adv.

Mr. Chandra Shekhar Ashri, Adv.

Mr. Sunil Kumar Verma, Adv.

Mr. Rauf Rahim, Adv.

Mr. D.N. Goburdhan, Adv.

Ms. Vibha Datta Makhija, Adv.

Mr. Rakesh K. Sharma, Adv.

Mr. Pavan Kumar, Adv.

Mr. M.P. Vinod, Adv.

Mr. Pranab Kumar Mullick, Adv.

Ms. Soma Mullick, Adv.

Ms. Rukhsana Choudhury, Adv.

Mr. Dip Narayan Mittra, Adv.

Mr. Ranjan Mukherjee, Adv.

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Mr. Sanjay Jain, Adv.

Mr. Rakesh K. Sharma, Adv.

Mr. Balaji Srinivasan, Adv.

Ms. A. Sumathi, Adv.

Ms. Abha R. Sharma, Adv.

Ms. Jyoti Mendiratta, Adv.

Ms. Anagha S. Desai, Adv.

Mr. Ravindra Keshavrao Adsure, Adv.

Mr. Shekhar Prit Jha, Adv.

Ms. Suruchii Aggarwal, Adv.

Ms. Asha G. Nair, Adv.

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

I.A. No.70:

Two weeks' time is allowed to Mr. Sudipto Sen to file response to the counter affidavit filed on behalf of Economic Offences Wing, Crime Branch, CID (Unit VII), Mumbai, Maharashtra. Rejoinder affidavit thereto may be filed within one week thereafter.

Place the matter on 3rd November, 2009.

Let a copy of the counter affidavit filed by Economic Offences Wing, Crime Branch, CID (Unit VII), Mumbai, Maharashtra, be served by the Registry upon learned counsel appearing on behalf of Mr. Sudipto Sen and the Special Officer by 10 th October, 2009.

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In Re.: 27th Report:

Item No.1 - Sale of 'Shree Vardhan Complex' 4, RNT Marg, Indore Divisional Office, (successful bidder's name as stated in the order dated 16.07.2008 was Himmat Singh Tomar) in place of Himmat Singh Tomar and Others:

On 16th July, 2008, when 23rd Report submitted by the Special Officer was placed for consideration in respect of Item No.1, we passed the following order:

"The two bidders have submitted their written offers for purchase of Sreevardhan Complex, 4, R.M.T. Marg, Indore, Madhya Pradesh, which has been opened in Court. The offer jointly made by Mr. Ashwini Kumar Modi and Mr. Aditya Modi is Rs.2.51 crores and the offer made by Mr. Himmatsingh Tomar is Rs.2.60 crores. Both the bidders and their counsel are present in Court. They were given opportunity to participate in the open bid. Mr. Himmatsingh Tomar gave the highest bid of Rs.3 crores. The same is accepted. The cross-cheque of Rupees twenty five lakhs submitted by the successful bidder by way of earnest money be made over to the learned counsel appearing for the Special Officer. The cheque of Rupees twenty five lakhs jointly submitted by Mr. Ashwini Kumar Modi and Mr. Aditya Modi be returned to their counsel.

The successful bidder is permitted to deposit the balance amount of Rs.2.75 crores within three months from today by way of Demand Draft drawn in favour of the Special Officer. In case he fails to deposit the balance amount within the time granted, the earnest amount of Rupees twenty five lakhs shall stand forfeited and it will

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be open to the Special Officer to take steps for fresh advertisement. In case the balance amount is deposited within the aforesaid time, the sale deed shall be executed within one month and possession of the property in question shall be delivered within one week from the date of execution/registration of the sale deed.

Learned counsel appearing on behalf of the successful bidder, Mr. Himmatsingh Tomar, stated that he may be permitted to put guards outside the premises of the property in question. Learned counsel appearing on behalf of the Special Officer has no objection to the prayer made on behalf of the successful bidder. Let it be so done."

Thereafter, an application dated 16th September, 2008, was filed by Himmat Singh Tomar stating therein that the offer was made not only on his behalf but on behalf of Himmat Singh Tomar and others. In view of this, recording mistake in order dated 16th July, 2008, that bid was given by Himmat Singh Tomar is corrected and it is directed that the bid to which reference has been made in that order must be read as having been given by Himmat Singh Tomar and others.

In pursuance of order dated 16th July, 2008, a cheque of Rupees twenty five lakhs was

given by Himmat Singh Tomar to the Special Officer but the same was taken back and in lieu thereof a Demand Draft of the said amount was ...7/-

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made over to the Special Officer on 25th August, 2008.

In terms of order dated 16th July, 2008, the balance amount of Rs.2.75 crores was required to be deposited within three months by way of Demand Draft drawn in favour of the Special Officer but the same was deposited in the following installments:

"Date	Amount
07.11.2008	Rs. 20,00,000.00
20.01.2009	Rs. 30,00,000.00
25.05.2009	Rs. 30,00,000.00
03.07.2009	Rs. 61,00,000.00
14.07.2009	Rs. 60,00,000.00
03.08.2009	Rs. 53,07,000.00
28.08.2009	Rs. 20,93,000.00
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	Rs.2,75,00,000.00
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From the aforesaid chart, it would be clear that the balance amount was deposited beyond the period as required by our order and about ten months delay was caused in payment of the last instalment.

Learned counsel appearing on behalf of the successful bidders stated that their clients have no objection to the payment of interest on the aforesaid amount for the period of delay.

Now, the question arises as to what should be the rate of interest. Having heard learned counsel appearing on behalf of the parties and keeping in view the facts of the case, we are of

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the view that successful bidders, viz., M/s. Raghav Holdings (Indore) Private Limited and D.R. Indore Realtors Private Limited be directed to pay interest at the rate of twelve per cent per annum on the delayed amount for the period of delay. This must be done by Demand Draft drawn in favour of the Special Officer within a period of four weeks from today.

The Special Officer shall execute and get the sale deed registered in favour of M/s. Raghav Holdings (Indore) Private Limited and D.R. Indore Realtors Private Limited, as agreed to Mr. Himmat Singh Tomar, within eight weeks of the making of payment as aforesaid.

Learned counsel appearing on behalf of the Special Officer stated that on account of delay in making the payment of the sum of Rs.2.75 crores, the Special Officer had to incur expenditure towards maintenance of the building and electricity charges which he is entitled to be reimbursed by the successful bidders with effect from 1st November, 2008, till the date of payment of interest amount, referred to above.

We have heard learned counsel appearing on behalf of the successful bidders on this count who

could not point out any fallacy in the aforesaid submission. Therefore, the successful bidders are directed to pay the amount of maintenance and electricity charges. The Special Officer shall ...9/-

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communicate to the successful bidders the maintenance and electricity charges within a period of four weeks from today and the successful bidders shall make the payment within four weeks thereafter.

Learned counsel appearing on behalf of the Special Officer stated that some furnitures are lying in the subject of dispute with regard to which prayer has been made to permit the Special Officer to remove and auction the same. Let it be so done.

Item No.2 [Sale of Property of SSIL at Gawali Tali Asian Tower at Indore:

It has been stated that, as per orders dated 16th July, 2008, and 23rd July, 2008, passed by this Court, Mr. Ashwini Kumar Modi and Mr. Aditya Kumar Modi were declared as successful bidders of the property against which earnest money of Rs.3.50 lakhs was deposited by them. It has also been stated that the purchasers had to deposit Rupees five lakhs within three months from 16th July, 2008, and balance amount within three months thereafter but no such deposit was made. In view of this, the Special Officer is permitted to forfeit earnest money of Rs. 3.50 lakhs and issue fresh advertisement for sale of the said property shall be issued.

Item No.6 - Sale of 34 flats lying vacant in Sanchayani Prestige Complex, Sawalambi Nagar, Nagpur - 440 022 (21st Status Report Report):

The Special Officer is permitted to issue advertisement for sale of thirty four vacant flats

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as "As is What is and As is where is basis" keeping the upset price at Rs.345 lakhs.

Item No.7 - Sale of Khandwa Branch Office at Indra Prastha Complex, 1st floor, Station Road, Khandwa, M.P. (23rd Status Report matter):

The Special Officer is permitted to issue advertisement on "As is What is and As is where is basis" keeping the upset price at Rs.47.91 lakhs.

Item Nos.8 and 9 - Sale of Jabalpur Divisional Office at Chandrika Tower, Jabalpur, M.P. and Sale of Baitul Branch Officer of SSIL at Baitul, M.P.:

From the report of the Special Officer, it appears that, pursuant to order dated 29th August, 2008, passed by this Court, advertisements were issued for sale of these properties but no offer has been received in relation to any of the said property. The Special Officer is permitted to issue fresh advertisements in this regard by reducing upset price by twenty five per cent.

Item No.11(iii) - Property situated at Plot (Public

amenity plot) No.30, Shashtri Nagar, Goregaon (W),  
Mumbai measuring 13294.62 sq.ft of vacant land:

Issue notice to M/s. Abhismit Enterprises  
and Shri Dutta Mandir Deasthan Trust to show cause  
as to why they be not directed to vacate illegal  
occupation of the lands belonging to SSIL.

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Item No.14 - Execution of Deed of Conveyance of the  
property of SSIL at 1st Floor (Commercial Hall)  
Harihar Complex, Plot No.1, Malviya Nagar, Bhopal,  
M.P. [Item No.6 of 24th Status Report]:

Issue fresh notice to Mr. Santosh Saran at  
his address furnished by the Special Officer.

Item No.18 - Disposal of unused papers,  
stationeries lying in different offices of SSIL:

The Special Officer is directed to take  
steps for disposal of unused papers and  
stationeries lying in different offices of SSIL by  
inviting tenders.

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Place the matter after four weeks for  
considering other items of the 27th Report as well  
as other matters which were placed today.

[ T.I. Rajput ]  
A.R.-cum-P.S.

[ Savita Sainani ]  
Court Master