

IT E M NO.1

COURT NO.1 0

S E C T I O N I V B

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Civil) No(s).8 0 1 2 / 2 0 0 7

(From the judgement and order dated 2 0 / 0 7 / 2 0 0 6 &amp; 2 1 . 9 . 2 0 0 6 in CW P No. 1 0 7 8 9 / 2 0 0 6 and R P No. 2 7 2 / 2 0 0 6 of The HIGH COURT OF PUN J A B &amp; H A R Y A N A AT CHAN DI G A R H)

M/S. GAGAN MOTO R S

Petitioner(s)

VER SUS

H A R Y A N A F I N A N C I A L C O R P N . &amp; O R S.

Respondent(s)

(With appln(s) for permission to file rejoinder affidavit and prayer for interim relief and office report)(for final disposal)

W I T H S L P (C) NO. 4 3 2 4 of 2 0 0 7

(With appln.(s) for permission to file rejoinder affidavit and with prayer for interim relief and office report)(for final disposal)

Date: 2 8 / 0 8 / 2 0 0 8 These Petitions were called on for hearing today.

C O R A M :

H O N ' B L E M R . J U S T I C E R . V . R A V E E N D R A N

H O N ' B L E M R . J U S T I C E L O K E S H W A R S I N G H P A N T A

For Petitioner(s) Mr. Shyam Divan, Sr.Adv.

Mrs Rani Chhabra, Adv.

For Respondent(s)

Mr. Gurbir Singh Raik hy, Adv.

for HFC

Mr. Amarjit Singh Bedi, Adv.

Mr. R.C. K a u s h i k , Adv

for R R 3 to 6

Dr. Sarbjit Shar m a , Adv.

Mr. Aditya Garg, Adv.

Mr. Snigdha Shar m a , Adv

Dr. S.K. Verma , Adv

Ms. Naresh Ba k s hi, Adv.

UPON hearing counsel the Court made the following

O R D E R

The main ground of attack is that the sale by first respondent in  
favour of respondent Nos.4 to 6 is void and illegal as it violated an

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interim direction in Writ Petition No.6 4 6 0 of 2 0 0 4 on 2 9 . 0 7 . 0 4 directing

third respondent herein not to demolish or alienate the property in

regard to which Haryan a Financial Corporation(H FC) has entered into an

agreement with him. According to the petitioner in violation of the said

order the third respondent had issued instructions to HFC to execute a

sale deed in favour of respondent Nos.4 to 6, and HFC executed a sale

deed on 8.2. 2 0 0 6 in favour of respondent Nos. 4 to 6. In a Contempt

Proceeding initiated in that behalf, HFC filed a reply stating that the sale

deed was executed unauthorisedly by its Branch Manager and thereafter the Contempt Petition was disposed of on 21.09.2006 with the observation that the sale deed shall have no effect on the rights of the petitioner, if it succeeds to reclaim the subject property in subsequent proceedings, if any, initiated by it before an appropriate forum. According to the petitioner Civil Writ Petition No.10789/2006 out of which present proceedings arise was filed to reclaim the said property.

On the other hand Mr. Gurbir Singh Raikhy, learned counsel for HFC stated that a sum of Rs. 63 lakhs were due from the petitioner to HFC, that in that behalf the industrial plot in dispute which was sold for Rs.7.50 lakhs and after giving credit, a sum of about Rs. 57 lakhs were due on 31.03.2004, that as on 25.5.2006 Rs.75.23 lakhs was due, that accepting a request for settlement, HFC waived off Rs. 67.76 lakhs, leaving a balance of Rs.7.47 lakhs; and the petitioner paid the said amount of Rs.7.47 lakhs in pursuance of the said settlement and the loan account was shown as closed and the title deeds relating to a house property were also returned and, therefore, there was a full and final

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settlement and the petitioner is estopped from challenging any part of it. We, however, find that none of these facts are placed on record by the HFC nor has it produced any documents in support of it.

The learned counsel for respondent Nos.3 to 6 submits that in the fight between petitioner and HFC, the purchasers are made to suffer. Learned counsel for respondent Nos.3 to 6 also submitted that the interim order dated 29.07.2004 referred to by the petitioner was in force only for a limited period and it was not extended and as on the date when the sale deed was executed there was no prohibition in regard to sale and therefore the sale of the property was absolutely valid.

HFC is given time till 10.09.2008 to put all the facts on record and produce all the correspondence and documents to show the alleged settlement. List on Wednesday, 10.09.2008.

(PAWAN KUMAR)  
COURT MASTER

(ANAND SINGH)  
COURT MASTER