

Smt. Ram Piari (Widow of Sarab Dayal) and Others

Vs

Rallia Ram (son of sant ram) and Others

S.L.P. (Civil) No. 9322 of 1980

(Baharul Islam, R. S. Pathak JJ)

03.08.1982

ORDER

PATHAK, J. -

1. We have heard learned counsel for the parties at length on this petition for special leave to appeal. The petitioners are aggrieved by the judgment dated August 7, 1980 of a Division Bench of the Delhi High Court affirming the judgment of a learned Single Judge of that court allowing a writ petition filed by the respondent Rallia Ram.
2. The subject of dispute is a residential evacuee property. Sarab Dayal, through whom the petitioners claim, occupied the ground floor, and the respondent, Rallia Ram, occupied the first floor. The rehabilitation authorities ordered the sale of the property, and the auction for sale, with which we are concerned, was held on August 11, 1961. Rallia Ram's bid of Rs 11,050 was accepted.
3. On September 8, 1961 Sarab Dayal filed an objection to the sale, in which he pleaded, inter alia, that he had been prevented from participating in the auction for want of notice. The proceedings took a protracted course, there being appeals followed by orders of remand and ultimately the sale in favour of Rallia Ram was set aside, the order being confirmed by the Joint Chief Settlement Commissioner in appeal. Rallia Ram applied in revision thereafter and the revision petition was dismissed on May 11, 1967 by the Joint Chief Settlement Commissioner.
4. Rallia Ram then filed a writ petition in the Delhi High Court against the order of the Joint Chief Settlement Commissioner and on August 6, 1976 a learned Single Judge of that court allowed the writ petition and quashed the order of May 11, 1967 and directed transfer of the property to Rallia Ram. The petitioners and the Union of India appealed, but the appeals were dismissed by a Division Bench of the High Court on August 7, 1980.
5. The principal contention on behalf of the petitioners is that the High Court erred in interfering with the concurrent findings of fact reached by the statutory authorities. A further contention is that the reserve bid in respect of the property was fixed at Rs 16,000, and therefore, the property could not be sold for Rs 11,050. It seems to us that this petition must fail.
6. The learned Single-Judge as well as the Division Bench have found that the statutory authorities omitted to consider material evidence on the point whether publication of the auction had been duly effected in law and whether Sarab Dayal had notice of the auction. The High Court also held that the statutory authorities had misdirected themselves in relying on considerations which were of no relevance to whether the publication and the conduct of the sale had been vitiated by any material

irregularity or fraud. We have considered the matter carefully and have also taken into regard the circumstance that the property was sold for less than the reserve bid, but we are not satisfied that this Court should interfere.

7. The petition is dismissed, but in the circumstances there is no order as to costs.

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