

Laxmi Commercial Bank Ltd.

Vs

M/s. B. Dhara Singh And Co. Ltd.

Civil Appeal No. 641 of 1974

(M. P. Thakkar, N. D. Ojha JJ)

17.02.1988

ORDER

Learned counsel for the appellant states that in view of the consensus formula which has been evolved the appellant is not interested in pressing the appeal on merits. By consent of all parties it is directed that the property in question in respect of which the appellant is a secured creditor and the Income Tax Department has also levied attachment (prior in point of time to the institution of the execution application as per the statement made by the learned counsel for the Income Tax Department) should be sold by public auction under the supervision of the learned Company Judge who is seized of the matter pertaining to the company in question which is being wound up. The learned Company Judge is requested to issue appropriate directions and exercise necessary supervision in order to ensure that the property fetches a proper price. He is also requested to associate all parties, namely, the appellant-Bank, Income Tax Department, the Official Liquidator and all concerned in the matter of sale of this property by public auction. The sale proceeds of the property in question upon realization will be dealt with by the learned Company Judge in accordance with law taking into account the claims for priority of the Income Tax Department which had already attached the property prior to levy of execution as also the claim of the appellant, a secured creditor taking into account such contentions as may be raised by the Official Liquidator and the concerned parties. In view of this formula evolved by consent of all concerned as prayed by the learned counsel for the appellant the appeal will stand disposed of as not pressed with no order as to costs.

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