

M/S. Swastic Automobiles and Others

Vs

Bihar State Financial Corporation and Others

Civil Appeal No. 2830 of 1989

(Rangath Misra, M. N. Vankatachaliah JJ)

09.05.1989

JUDGMENT

RANGANATH MISRA, J. –

1. Special leave granted.
2. This appeal is by special leave and is directed against the dismissal of an appeal of the appellants by a Division Bench of the Patna High Court and confirming the order of a learned Single Judge made in a writ petition.
3. When the matter was heard we found that the sale of the security by the Bihar State Financial Corporation, respondent 1 herein, in exercise of its powers under the Financial Corporation Act (63 of 1951) was difficult to be sustained inasmuch as the security which was valued at over Rs. 20 lakhs had been sold away for a small amount that was actually due by the debtor to the Corporation and subsequently the price had been raised to some extent by negotiation. We further found that the auction-purchasers were no other than the tenants.
4. At our instance learned counsel for the appellant (debtor), respondent 1 (creditor) and respondent 6 and 7 (auction-purchasers) attempted to settle the entire dispute but while there is agreement on major issues, some survived for being ironed out with our intervention.
5. We have heard learned counsel for the parties and direct that the civil appeal shall be disposed of on the following terms :
 - (1) The auction sale held on March 29, 1986 is set aside.
 - (2) Under orders of this Court, the appellant has deposited a sum of Rs. 3,05,000 with the Corporation towards its dues. The notice issued by the Corporation indicated that up to December 31, 1985 the dues of the Corporation were Rs. 1,98,333.16. Up to the date of deposit of the amount on May 23, 1988 the total liability of the appellant works out to Rs. 2,75,000 by approximation. The Corporation shall work out within two weeks from today the exact amount due on the basis of fact and figures indicated above and intimate the same to the appellant.
 - (3) The surplus amount in the hands of the respondent-Corporation is refundable to the appellant and the same shall be refunded on accounting made as aforesaid.
 - (4) The amount paid by the respondent 7 and 8 as purchases money shall be refunded

to them by the Corporation with simple interest at 18 per annum from the date of payment till the date of refund.

(5) The District Judge of Dhanbad within whose jurisdiction the disputed property is located, shall cause an inventory to be prepared of the property as available at the site and cause delivery of possession of the undisputed items thereof to the appellant or the respondent 7 and 8, as the case may be, after preparing an appropriate inventory. In case any item of property is found there in respect of which title is disputed between the appellant on one side and respondent 7 and 8 on the other, the said District Judge shall decide the same by holding an appropriate enquiry and his decision shall be taken as final. The learned District Judge should complete the process as early as possible and in any case, not later than three months from now.

(6) Respondents 6 and 7 shall continue as tenants as before in regard to the property of which they were tenants under the appellant prior to the purchase and shall be liable for payment of rent for the entire period for which rent has not been paid. In the event of the appellant being required to file a suit for recovery of such rent, respondents 7 and 8 shall not be entitled to plead the bar of limitation.

7. Respondents 7 and 8 shall be entitled to a net amount of Rs. 30,000 by way of solatium and this amount shall be paid by the appellant to them within four weeks from today.

6. The parties are directed to bear their respective costs before the High Court as also here.

7. The parties are further directed to comply with every direction made above and non-compliance shall be treated as contempt of this Court's direction.

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