

Hindi Pracharak Prakashan and Another

Vs

M/s G. K. Brothers and Others

Special Leave Petition (Civil) No. 4759 Of 1989

16.07.1990

ORDER

1. Counsel for the decree-holder tells us that the decree has been satisfied by deposit of the decretal dues in the Registry of this Court. Liberty is given to the decree-holder to withdraw the same for satisfying the decree.

2. The property was sold by auction as early as 1980 and for well over 10 years the auction amount has been in deposit in Court without being invested. It was the duty of the decree-holder as also the auction-purchaser to ensure that the money was put into interest earning deposit. The Court should also have taken care to give appropriate direction. No income in the circumstances has been earned on the auction amount said to be about rupees one lakh and five thousand.

3. Now that the decree has been satisfied and the sale which has not yet been confirmed is being set aside, the auction-purchaser is entitled to the amount deposited in Court as also to reasonable compensation. We are of the view that reasonable compensation in this case should be 12 per cent per annum of interest on the amount. We accordingly direct that within three months from now the judgment-debtor shall deposit the interest due at 12 per cent in the executing court and on that amount being deposited the original amount in deposit together with the interest to be deposited shall be returned to the auction-purchaser. In the event of the amount not being paid as now directed, interest shall be calculated at 18 per cent instead of 12 per cent as ordered above and the amount can be recovered through execution against the very property.

4. The special leave petition is disposed of accordingly.

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