

RAJASTHAN HIGH COURT

RFC

Vs.

Ram Ratan

S.B.C.M.A. No. 1941 of 2001
(Govind Mathur, J.)

04.03.2008

JUDGEMENT

Govind Mathur, J.

1. This appeal is preferred to challenge the order dated 23-9-2000 passed by learned District Judge, Bhilwara rejecting an application under Section 31 of the State Financial Corporation Act, 1951. An application under Section 5 of the Limitation Act is also preferred seeking condonation of delay i.e. of 151 days in filing the appeal. The reason given for condonation of delay is that after obtaining certified copy of the order dated 23-9-2000, on 3-11-2000 the same was sent to the Head Office of the Rajasthan Financial Corporation, Jaipur on 14-12-2000. A decision thereafter was taken for filing the appeal on 30-3-2001. Accordingly, contact was made with the counsel for the Corporation and appeal was filed on 4-4-2001.

2. While considering the application, I consider it appropriate to examine the matter on merits also.

3. Learned District Judge rejected the application under Section 31 of the Act of 1951 against the borrower Ram Ratan on the count that the mortgaged tractor was already attached and sold by the Corporation and as such no relief referred under Clauses (a) to (c) of sub-section (1) of Section 31 of the Act of 1951 could have been granted. The application was rejected against the guarantor-respondent No. 2 on the ground that the Corporation failed to prove the execution of the surety by respondent Kesar Devi.

4. Under Section 31 (1) of the Act of 1951, the District Judge may grant the following reliefs :

- (a) for an order for the sale of the property pledged, mortgaged, hypothecated or assigned to the Financial Corporation as security for the loan or advance; or
- (aa) for enforcing the liability of any surety; or
- (b) For transferring the management of the industrial concern to the Financial Corporation; or
- (c) for an ad interim injunction restraining the industrial concern from transferring or removing its machinery or plant or equipment from the premises of the industrial concern without the permission of the Board, where such removal is apprehended.

5. None of the relief referred above could have been granted by the District Judge while exercising powers under Section 31 of the Act of 1951 after sale of the mortgaged tractor by the Corporation. A finding of fact is given that the Corporation failed to prove the surety alleged to be given by respondent Kesar Devi and that is based on sound appreciation of evidence. Learned counsel failed to point out any wrong with the finding given. It is also relevant to note that a sum of Rs. 1,63,000/- was advanced in favor of the respondent Ram Ratan and in the year 1989, the tractor compressor was attached and was auctioned with the cost of Rs. 1,65,000/-.

6. In view of whatever said above, I do not consider it appropriate to condone the delay in filing the appeal. As such, the application under Section 5 of the Limitation Act as well as the appeal are dismissed.

Appeal dismissed.