

Supreme Court of India

Swastic Automobiles And Ors. vs Bihar State Financial ... on 9 May, 1989

Equivalent citations: AIR 1989 SC 1551, JT 1989 (2) SC 472, 1989 (1) SCALE 1445, 1989 Supp (2) SCC 223, 1989 (2) UJ 243 SC

Author: R Misra

Bench: M Venkatachaliah, R Misra

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 No. 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 lacs 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-purchaser were no other than the tenants.

4. At our instance learned counsel for the appellant (debtor), respondents Nos. 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 or 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 29.3.1986 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 upto 31.12.1985 the dues of the Corporation were Rs. 1,98,333.16p. Upto the date of deposit of the amount on 23.5.1988 the total liability of the appellant works out Rs. 2,75,000 by approximation. The Corporation shall work out within two weeks from today the exact amount due on the basis of facts 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 respondents 7 and 8 as purchase 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 respondents 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 respondents 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 at any rate, 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 not 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.