

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.2068 OF 2020
(Arising out of SLP(Civil) No.20082 of 2017)

ASHOK KUMAR

APPELLANT(S)

VERSUS

STATE OF U.P & ORS.

RESPONDENT(S)

WITH

CIVIL APPEAL NO.2069 OF 2020
(Arising out of SLP(Civil) No.16053 of 2017)

O R D E R

Leave granted.

The appellant is aggrieved by the orders of the High Court declining to interfere with the decision of the respondent corporation to withdraw the recovery certificate under Section 32G of the State Financial Corporation Act, 1951 (hereinafter referred to as "the SFC Act") against respondent no.8, after the appellant had been declared the highest bidder at the auction.

The unit of respondent no.8 was put to auction as it defaulted in repayment of loan to the respondent Corporation. It issued a notice under Section 29 of SFC Act on 06.11.1997. The recovery certificate, consequent

to the requisition, was then issued on 11.12.2000. The appellant was the highest bidder in the auction sale on 12.06.2006 for a sum of Rs.20,20,000/-. Subsequently, on 26.06.2006 the auction sale was approved by the respondent Corporation. On 04.07.2006, one Karnaveer Singh Sirohi stepped in to offer 24 lakhs for the property. The state authorities then decided to cancel the auction on 11.07.2006 to hold fresh auction.

Civil Miscellaneous Writ Petition No.39537/2006 filed by the appellant, challenging the cancellation of auction sale was dismissed in default on 17.01.2013. On 13.03.2013, the Corporation, in view of the delay being caused in the recovery proceedings, decided to proceed under Section 29 of the SFC Act. On 14.03.2013, the writ petition was restored. On 13.08.2013, the recovery certificate was returned.

The appellant also challenged the decision of the respondent Corporation resorting to Section 29 of the SFC Act in Civil Miscellaneous Writ Petition No.65313 of 2013. The High Court, in the former writ petition directed refund of the deposit made by the appellant by the Revenue Authorities/Corporation within four weeks. The latter writ petition was also dismissed on 29.11.2013.

We have heard counsel for the parties at length. Limited notice was issued by us on 24.07.2017 confined to the issue for grant of interest on the refund directed by

the High Court.

Learned counsel for the appellant submits that he has been kept deprived of the benefits of the auction for no fault of his. The bid amount became a dead investment with no returns and therefore he needs to be compensated adequately by grant of 18% interest.

Learned counsel for the Corporation submits that the auction price having been approved by it, they are not at fault in any manner and should not be saddled with any interest. Moreover, the amount deposited by the appellant with the revenue authorities was never forwarded to the Corporation.

Learned counsel for the State sought to persuade us that the decision to cancel the auction sale was bona fide in view of the higher offer made.

In the limited nature of the order to be passed by us, we are not concerned with the internecine quarrel between the Corporation and the revenue authorities. The appellant cannot be faulted with in the entire episode and needs to be compensated adequately for what became a dead investment by him.

The cancellation of the auction sale was not at the behest of the Corporation but was a unilateral act of the State Authorities. The bid amount was never transferred to the Corporation and remained with the revenue authorities. Therefore, the liability for compensating the appellant will as also rest with the revenue

authorities alone.

Learned counsel for the State has invited our attention to Rule 285-L of the U.P. Zamindari Abolition and Land Reforms Rules, 1952 governing the procedure of the certificate proceedings and submits that the appellant is entitled at best to an interest of 5% on the amount deposited by him.

The auction was held as far as back on 12.06.2006, the deposit was made by the appellant in due time, the act of cancellation was not attributable to the appellant in any manner. The Corporation had approved the sale. In the peculiar facts and circumstances of the case, we do not consider that it will be adequate compensation for the appellant to grant him 5% interest on his dues under the Rules. If the Rules have not been complied with by the State Authorities themselves, we see no reason that in the special facts and circumstances of the case, we should not award an interest of 10% on the amount deposited by the appellant.

It is, therefore, directed that the appellant shall be refunded the sum of Rs.20,20,000/- (Rupees Twenty Lakhs Twenty Thousand Only) by the State Revenue Authorities with interest at the rate of 10% p.a. from the date of deposit till the date of actual refund which we direct to be complied with within a period of six weeks from today.

The appeals are allowed.

.....J.
(NAVIN SINHA)

.....J.
(KRISHNA MURARI)

New Delhi;
March 06, 2020

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s).20082/2017

(Arising out of impugned final judgment and order dated 29-11-2013 in WC No.65313/2013 passed by the High Court Of Judicature At Allahabad)

ASHOK KUMAR

Petitioner(s)

VERSUS

STATE OF U.P & ORS.

(IA No. 46116/2017 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)
WITH
SLP(C) No. 16053/2017 (XI)

Respondent(s)

Date : 06-03-2020 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE NAVIN SINHA
HON'BLE MR. JUSTICE KRISHNA MURARI

For Petitioner(s)

Mr. Ali Chaudhary, Adv.
Mr. Ranjay Dubey, Adv.
Mr. Krishna Kumar Singh, AORFor Respondent(s)
R-1 to 5Mr. Tanmaya Agarwal, AOR
Mr. Chandra Shekhar Suman, Adv.
Mr. Wrick Chatterjee, Adv.

R-6

Mr. Shrish Kumar Misra, AOR
Ms. Deepika Mishra, Adv.
Mr. Ajay Kumar, Adv.
Mr. Bimlesh Pandey, Adv.UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeals are allowed in terms of the signed order. Pending application, if any, stands disposed of.

(ARJUN BISHT)
COURT MASTER (SH)(DIPTI KHURANA)
COURT MASTER (NSH)

[Signed order is placed on the file]