

ITEM NO.34

COURT NO.9

SECTION XV

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 3870/2020

(Arising out of impugned final judgment and order dated 26-07-2019 in DBSAW No. 1678/2018 passed by the High Court Of Judicature For Rajasthan At Jodhpur)

GOVIND & ANR.

PETITIONER(S)

VERSUS

THE STATE OF RAJASTHAN & ORS.

RESPONDENT(S)

([TO BE TAKEN UP AT 2:00 P.M.])

Date : 30-08-2022 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE AJAY RASTOGI
HON'BLE MRS. JUSTICE B.V. NAGARATHNA

For Petitioner(s) Mr. Deepak Goel, AOR
Mr. Kumar Kartikay, Adv.
Ms. Neelu Sharma, Adv.
Mr. Sumit Saddi, Adv.
Ms. Urvashi Sharma, Adv.
Mr. Chaman Rana, Adv.

For Respondent(s) Mr. Amod Kr. Bidhuri, Adv.
Mr. Dhananjay, Adv.
Mr. Saquib Siddiqui, Adv.
Mr. Yudhister Bharadwaj, Adv.
Ms. Simran Gill, Adv.
Mr. Charan S. Verma, Adv.
Ms. Pragati Neekhra, AOR

Ms. Madhurima Tatia, AOR

UPON hearing the counsel the Court made the following
O R D E R

The present petition has been filed by the bonafide auction purchaser. Even after the bid was finalized and the auction purchaser deposited the complete auction bid amount, still he could

not get the title of the subject property in question for the reason that there was a restriction under Section 42 of the Rajasthan Tenancy Act, 1955 (for short 'the 1955 Act') which prohibits that the property belonging to SC/ST could not be transferred to a non-SC/ST and since in the instant auction proceedings, the property was mortgaged with the respondent-bank and because of the default being committed by the borrower, the mortgaged property was put to public auction and the present petitioner, is indisputedly a non-SC/ST member, being a highest bidder, his bid was finalized and auction bid amount was deposited by him and sale deed was also executed, but since all actions were void in view of Section 42 of the 1955 Act, he was deprived of the rights over the subject property in question.

After going through the material on record and taking note of Section 42 of the 1955 Act, this being settled that the petitioner being a member of non-SC/ST was not entitled to claim ownership rights over the subject property and this has been held by the Division Bench of the High Court under the order impugned, we find no reason to interfere in the order impugned, but at the same time, the petitioner being a bonafide auction purchaser participated in the auction bid and a sum of Rs.1,27,000/- was deposited by him in the year 1996, although remain in physical possession of the subject property in question, in the given facts and circumstances, still is entitled for refund of the money deposited by him as an auction purchaser with a reasonable interest over the money which remain in the account books of the respondent-bank.

Learned Counsel for the bank submits that the auction money

which was deposited by the petitioner was adjusted against the outstanding dues of the borrower and the balance was refunded to the borrower.

The present petitioner is not concerned how the transaction was further forwarded by the respondent-bank in adjusting the money deposited by the petitioner towards the non performing asset of the borrower, but he being the bonafide auction purchaser is entitled for refund with a reasonable interest.

The Special Leave Petition is, accordingly, disposed of with a direction to the respondent-bank that the amount of Rs.1,27,000/- be refunded to the petitioner along with an interest at the rate of 8% per annum from the date of deposit until the actual payment. The compliance be made within a period of three months.

Pending application(s), if any, shall stand disposed of.

(POOJA SHARMA)
COURT MASTER (SH)

(MONIKA DEY)
COURT MASTER (NSH)