

ITEM NO.3

COURT NO.2

SECTION XIA

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.7489/2017

(Arising out of impugned final judgment and order dated 22/02/2017
in AN No. 22/2011 passed by the High Court of Kerala at Ernakulam)

M/S STERLING ESTATES AND PROPERTIES LTD

Petitioner(s)

VERSUS

P. M. ANEES AND ORS

Respondent(s)

(With appln. (s) for exemption from filing c/c of the impugned
judgment)

Date : 09/03/2017 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DIPAK MISRA
HON'BLE MR. JUSTICE A.M. KHANWILKAR
HON'BLE MR. JUSTICE MOHAN M. SHANTANAGOUDAR

For Petitioner(s) Mr. Guru Krishna Kumar, Sr. Adv.
Mr. Deepayan Mandal, Adv.
Mr. Rahul Shyam Bhandari, AOR

For Respondent(s)

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

Heard Mr. Guru Krishna Kumar, learned senior counsel
along with Mr. Deepayan Mandal, learned counsel for the
petitioner.

The orders dated 9th February, 2017 and 15th February,
2017 in Company Appeal No.22 of 2011, have been filed by the
learned counsel for the petitioner. The same are taken on
record.

It is submitted by the learned senior counsel that if the properties are put to public auction by the Receiver, it is likely to fetch Rs.100 crores. On being asked to deposit Rs.10 crores before this Court, after obtaining instructions, he has answered in the negative. But, we find from the order of the High Court and the reports filed by the Receiver that a fair price has been arrived at for thirty-eight items of the properties. There is a distinction between determination of a fair price and keeping fair price as reserved price and putting properties into public auction. The price that has been determined by the court as we noticed is approximately Rs.28.5 crores by the Receiver.

As a submission has been advanced that in public auction the value of the said properties is likely to be enhanced to Rs.100 crores, which we find is a substantial margin, we permit the petitioner to file an application before the Division Bench of the High Court in Company Appeal No.22 of 2011, putting forth that if the public auction is held, the thirty-eight items in the properties are likely to fetch approximately Rs.100 crores. Such an application may be filed by 30th March, 2017. If such an application is filed, the Division Bench may take the same into consideration keeping in mind that the duty of the court is to see that properties are ordinarily put in public auction to fetch the maximum price so that unsecured creditors and other dues are met with as far as practicable. Till the High Court decides the same, the aforesaid direction issued in the impugned order for execution of sale deed by the Receiver, shall remain stayed.

The special leave petition stands disposed of accordingly.

(Chetan Kumar)
Court Master

(H.S. Parasher)
Court Master