IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

I.

Regular Second Appeal No.4900 of 2013 (O&M)
Date of decision: 20.7.2015

M/s Devindra Wood Industries

... Appellants

Versus

Haryana State Financial Corporation, Chandigarh and others

... Respondents

II.

Regular Second Appeal No.2507 of 2013 (O&M)

Devinder Singh

... Appellant

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

<u>Present</u>: Mr.S.M.Sharma, Advocate,
for the appellants.

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1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

<u>RAJIV NARAIN RAINA, J.(Oral)</u>

This order will dispose of two appeals, i.e., RSA # 4900 of 2013 and RSA # 2507 of 2013 as common questions of law and fact are involved in both the appeals. The facts are taken from RSA # 4900 of 2013 for convenience.

2. The only point urged in appeal by Mr. S. M. Sharma is that valuation of the property of the appellant's firm was not correctly assessed by the Haryana Financial Corporation (HFC) at the time of auction of the suit property on 26th May, 2000 where the bidders were third parties. HFC auctioned the suit property which was mortgaged as security for loan when the appellant was unable to clear the outstanding dues of the Corporation. The appellant urges that the property was auctioned at a throwaway price of ₹ 27.5 lacs which suffers under-valuation and, therefore, the appellant has been financially disadvantaged by improper evaluation of the price of the property which it could fetch in the open market.

3. The public auction having taken place and the sale confirmed and the sale proceeds appropriated towards the outstanding dues, the appellant approached the civil court in a suit for declaration to the effect that the assessment made by HFC vide reference # 2896 dated 23.2.1999 for ₹ 37,99,210/- with respect to building, land, plant & machinery and other assets of the firm built on land measuring 10K-7M was grossly undervalued, unlawful, arbitrary, malafide, null & void and conducted in league with the auction purchaser and, therefore, was not binding on his rights.

4. On notice of the suit, HFC contested the case and filed its written statement and took the objection that the suit was not maintainable nor had any cause of action arisen to the appellant. HFC had advanced a loan to the plaintiff-appellant and as per the terms and conditions of the agreement, the appellant was unable to repay the amount and became a willful defaulter in payment of installments. It was for this reason that HFC was compelled to take over the assets of the company, auction the property

and recover its outstanding dues. Indisputably, the appellant participated in process which led to the auction proceedings before the HFC and there was sufficient room and due opportunity to him to have disputed the evaluation of the property before the competent authorities in the Corporation which is a creature of the State Financial Corporations Act, 1951 meant to act as custodian of public money and safeguard it.

5. The courts below have not agreed with the plaintiff-appellant and have dismissed the suit properly. When the State Financial Corporation acts in its jurisdiction to recover the money, it does so as a duty cast by the Act and in the process, it is bound to give effect to the provisions of the Act to afford to the defaulting party an effective right to be heard at the crucial stage and to inform the defaulting party to regularize the account, failing which, it becomes inevitable for the Corporation to dispose of the property and in this process, the civil court has no elbow room to interfere by grant of an injunction or to *ex-post facto* embark upon an adventure to re-do the price evaluation of the property auctioned in terms of the provisions of the State Financial Corporations Act after third party rights have intervened and settled. No ground is made out warranting interference on the second appeal side.

6. No question of law, much less a substantial one arises in either the appeals. The same are dismissed as not warranting admission.

(RAJIV NARAIN RAINA)
JUDGE

July 20, 2015
Paritosh Kumar