

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.692 of 2016
Arising out of
C.W.J.C. No. 5291 of 2014**

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Bihar Rubber Industries, Industrial Area, Buxar, through its Proprietor Deep Chand Das, son of Late Butmal Ram, Resident of Mohalla- Naya BAZAR, P.O.- Buxar, P.S.- Buxar, District- Buxar.

.... Appellant/s

Versus

1. The Managing Director, Bihar State Financial Corporation (BSFC) Fraser Road, Patna-01.
2. The Manager (Co-ordinator), Bihar State Financial Corporation, Fraser Road, Patna-1.
3. The Deputy Manager (Co-ordinator), Bihar State Financial Corporation, Fraser Road, Patna-1.
4. The Branch Manager, Bihar State Financial Corporation, Shahabad Branch, Ist Floor, G.C. House, Maharaja Hatta, Arrah, Bhojpur

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Rajendra Narain, Sr. Advocate

For the Respondent/s :

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 18-04-2017

Seeking exception to an order dated 10.03.2016 passed by the learned Writ Court in C.W.J.C.No. 5291 of 2014 appellant has filed this appeal under Clause 10 of the Letters Patent.



2. Challenging attachment of appellant's property and the auction undertaken by the Bihar State Finance Corporation on non-payment of loan advanced, writ petition was filed and a grievance was made before the Writ Court that the benefit of One Time Settlement Scheme, 2009 was not granted to the appellant.

3. The learned Writ Court found that the appellant did not avail of the benefit of the settlement scheme, did not file the application in the prescribed *pro forma* and also did not deposit the outstanding amount, i.e. the principal amount of Rs. 12,20,529/- and, therefore, if the claim of the appellant under the scheme was not considered, no error has been committed.

4. Learned counsel for the appellant raised a two fold submission before us. His first contention was that the appellant was not aware as to what is the principal amount to be paid. He had been corresponding to find out what is the principal amount and as this was not informed to him, he did not pay the amount towards the One Time Settlement.

5. We find the aforesaid contention of the appellant to be wholly misconceived. There are materials available on record to show that the appellant was aware as to what was the principal amount to be paid and inspite of that he was delaying the matter and, therefore, on this ground we see no reason to make any indulgence. The second



ground canvassed by relying upon the judgments in the case of **Mahesh Chandra Vs. Regional Manager, U.P. Financial Corporation and others- 1993 (1) PLJR 90 (SC)**, **M/s Suraj Kana Pharmaceutical Vs. Bihar State Financial Corporation & Anr.- 2009 (3) PLJR 675** and **Kerala Financial Corporation Vs. Vincent Paul & Anr.- 2011 (2) PLJR 122 (SC)** are that without following any guidelines and the rules the auction has been held. Placing reliance on the judgment of the Supreme Court in the case of Mahesh Chandra (supra) it is tried to be argued that when there are no rules of conducting auction, the guidelines issued by the Reserve Bank and other authorities have to be followed and as these guidelines have not been followed, the entire auction stands vitiated.

6. On a perusal of the order by the learned Writ Court, we find that this ground seems to have not been canvassed before the Writ Court. Even otherwise, when we proceeded to consider this ground, the appellant except for contending that the guidelines and the rules have not been followed, does not point out any specific violation of the rule or specific instances on the basis of which the rule is said to have been violated. On a perusal of the pleadings of the appellant in the writ petition we find that except for making a wild and vague allegation that the rules and guidelines have not been followed in Paragraph 17 of the writ petition, appellant does not



specify anywhere either in the writ petition or in the Memorandum of this Appeal before us as to which rule, which guidelines and in what manner the auction proceedings stands vitiated. In the absence of there being specific particulars pointing out the specific violation the auction cannot be interfered with on the basis of such vague and unspecified allegation.

7. Accordingly, finding no ground to make any indulgence into the matter, the Letters Patent Appeal stands dismissed.

(Rajendra Menon, CJ)

(Sudhir Singh, J)

P.K.P.

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
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