IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.21110 of 2011

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M/S Gaster India Company, Govindpur, P.O. Fatwah, District Patna through its Partner Lalit Kumar Sinha, Son of Late Shankar Prasad, Resident of Plot No. 176, Sri Krishnanagar, Road No. 23, District and Town- Patna.

.... Petitioner/s

Versus

1. Bihar State Financial Corporation, Fraser Road, Patna through its Managing Director.
2. Managing Director, Bihar State Financial Corporation, Fraser Road, Patna.
3. Manager, Incharge (Zone-V), Bihar State Financial Corporation, Fraser Road, Patna-1.
4. Mukesh Kumar Singh, S/O Sri Sri Shanti Singh, Resident of Govindpur, P.O. Fatwah, District Patna.

.... Respondent/s

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Appearance :

For the Petitioner	:	Mr. Ravi Verma, Advocate
For the B.S.F.C.	:	Mr. Raju Giri, Advocate
For Respondent No.4	:	Mr. Manik Vedsen, Advocate
		Mr. S.C. Bose, Advocate

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CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA

CAV JUDGMENT

Date: 10.10.2018

In the present writ application, the petitioner seeks a writ in the nature of certiorari for quashing the office order dated 28/03/2011, issued by the Manager in charge (Zone V), Bihar State Financial Corporation, Fraser Road, Patna, whereby the mortgaged/hypothecated assets of the petitioner has been sold for extraneous considerations, and mala-fide intention in a most arbitrary manner, and without any information to the petitioner. The further relief sought by the petitioner is that the respondents be directed for restoring status quo ante in favour of the petitioner with regard to the mortgaged assets of the firm which had been handed over to the private respondent number 4 in the most clandestine manner, at a grossly undervalued price.

2. The brief foundational facts leading rise to the present writ application is that one of the partners of the company, M/s Gaster India Company, entered into a transaction with the respondent corporation, which is a "State" within the meaning of Article 12 of the Constitution of India, and thus amenable to the writ jurisdiction of this Court.

(i) On 05/02/1981, a proposal for grant of a loan amounting to Rs 4 ,47 ,000 was submitted before the respondent corporation by the three partners of the firm, working in the name of M/s Gaster India Company, with its address at Govindpur, P.O. Fatwah, Dist. Patna, under the liberalised scheme for the educated unemployed, by the Corporation.

(ii) On 31/03/1981, an amount of Rs 2, 95, 000 was sanctioned by the Corporation, and after adjusting the subsidy, as per the applicable provisions, an amount of Rs 2,80,000 was disbursed in favour of the petitioner firm, and in lieu thereof, a freehold plot measuring 2 Kathas, 5 Dhurs, bearing Khesra Number 231, Khata Number 82, of Mohalla Govindpur, Fatwah, Dist. Patna, was hypothecated in favour of the Corporation.

(iii) The unit started its production in the year 1987, but for reasons unforeseen, the same could not be run further, and it met with a closure. After the closure of the firm, the petitioner along with the other partners approached the corporation for settlement of the accounts, but due to the lack of interest evinced by the authorities in the corporation, such settlement could not be brought about between the parties.

(iv) In the year 2008, the Corporation announced the Incentive cum Loan Restructuring

Scheme (ILRS-2008), for recovery as well as to reduce NPA accounts. This scheme was for the benefit for all those units whose accounts had become NPAs, and which had become doubtful and loss category, for a minimum period of 5 years as on 29/02/2008.

(v) Under the aforementioned scheme, those who wished to avail the same, were required to deposit an initial amount equal to 10 per cent of the principal outstanding amount of their respective liability, along with Rs 1,000 as application fee.

(vi) In response to the aforementioned scheme floated by the Corporation, the petitioner deposited Rs 29,800 on 31/12/2008, with the application form to get his loan restructured, but he was asked to wait for the decision of the Corporation.

(vii) However, despite waiting for a substantial period of time, and having contacted the office of the respondent corporation on several occasion, the Petitioner received no communication from the corporation.

(viii) In the meantime, the Petitioner came to know from reliable sources that the Corporation was negotiating with some persons for the sale of some hypothecated assets of the Petitioner, and was thus constrained to send a legal notice to the corporation on 08/11/2011.

(ix) In reply to the said notice, an office order dated 29/03/2011, was issued under the signature of the Manager, in charge (Zone V), Bihar State Financial Corporation, and was served upon the Petitioner, which revealed that the sale of the Petitioner's hypothecated/mortgaged assets had already been taken on 21/05/2007 itself. (Annexure 5)

(x) As a consequence thereof, the Petitioner was constrained to move this Hon'ble Court, for seeking appropriate relief, and for the setting aside of the order as contained in Annexure 5. Hence, the present writ application.

3. The matter was placed before the Court, and on 27/03/2012, this Court, after perusing the

material on record, was pleased to stay the operation of the order dated 29/03/2011, and notices were issued to the Corporation, as well as the private respondents, in whose favour the respondent Corporation had issued the sale order.

4. The Corporation, as well as the private respondent entered appearance, and filed their respective counter affidavits, wherein it was stated that a decision for the settlement of the loan account of the petitioner had been taken on 19/08/2009 itself, by which the petitioner was required to deposit an amount of Rs.10, 96,000, but the contention of the petitioner is that the said decision was never communicated to the petitioner.

5. The learned counsel appearing on behalf of the Petitioner submitted that the Corporation has proceeded in an altogether arbitrary and unreasonable manner, and whatever decision was taken in matter of the Petitioner regarding restructuring of the petitioner's loan account, the same was never communicated to or served upon the petitioner. Such

an action by the Corporation which is a 'State' within the meaning of Article 12, was clearly violative of the principles of natural justice, and thus warranted interference by this Hon'ble Court. It was further contended by the petitioner that the office order dated 29/03/2011 was supplied to the petitioner after the petitioner had already served the legal notice, and it was only thereafter that the Petitioner came to know about the illegal acts of the corporation.

6. It was submitted that from a perusal of the sale order dated 28/03/2011, the foul play being practised by the Corporation was patently and manifestly evident as the said land had been sold to the Respondent No. 4, at an undervalued price of Rupees Eleven Lacs, and that too was done behind the back of the petitioner, without giving him any opportunity to take over the same on matching terms.

7. It was further pointed out by the learned counsel for the Petitioner, that in order to facilitate and bestow undue favours on the Respondent No. 4, though the sale was purportedly finalised in the year

2007, the sale order was issued four years thereafter, i.e. on 28/03/2011. In the said sale order, the Respondent No. 4 has been directed to deposit the amount of purchase in a further four years, in easy instalments, resulting in granting the Respondents a total length of eight years of time, to deposit the consideration amount. Thus, the arbitrariness and unreasonableness in the action of the Respondent Corporation is writ large in the very recitals of the impugned order, which cannot be sustained in any Court of Law. The said order was not communicated to the petitioner, though it contained a further recital that the original promoters of the unit may retain the assets on matching terms and conditions.

8. The mala fide and unreasonable action of the respondent corporation was further evident from the fact that even when this Court vide its order dated 27/03/2012, directed stay of the operation of the order dated 29/03/2011, the Corporation continued to receive further amounts from the Private Respondents, which amounted to clear violation of the order of this

Hon'ble Court.

9. Learned Counsel for the petitioner further stated that since the petitioner was willing and ready to settle its account in pursuance of the decision dated 19/08/2009, i.e. by paying an amount of Rs 10, 96, 000, the authorities may be issued appropriate directions. He further submits that the petitioner is also ready to pay an additional amount, as decided on 19/08/2009, in full and final settlement of the accounts of the Company. It was further prayed that in view of the illegal and arbitrary action of the Respondent Corporation, the impugned order dated 29/03/2011, be quashed.

10. Per contra, the Respondent Corporation has filed its counter affidavit stating that the petitioner's case is devoid of any merit, as the petitioner was a recalcitrant borrower, and having taken a loan of Rs 2, 95, 000 on 16/05/1981, consistently defaulted in payment of the Corporation dues, and consequently, the Corporation issued a legal notice dated 29/02/1992, directing the concerned to

discharge its liability in full, within thirty days from date of issuance of the notice. The said notice issued under S.30 and S.29 of the Bihar State Financial Corporation Act, 1951 failed to heed any response from the Petitioner, and thus, the Corporation advertised the mortgaged assets under the continuous sale policy on 25/06/1995, but the Corporation did not receive any tender, nor did the promoter take any steps for payment of the Corporation dues.

11. The Corporation, thereafter, came out with a scheme for settlements of NPA (Non Performing Asset) Loan account, known as ILRS-2008. The said scheme was made available to all such units which had become NPA, and the Petitioner submitted his application for settlement of dues along with the ten per cent principal amount, which was duly considered by the Corporation, and after necessary examination in terms of the scheme, an order of settlement of dues under ILRS-2008 was communicated to the Petitioner, Shri Lalit Kumar Sinha, and also to the concerned under Memo no. 137, dated 19/08/2009, through

registered post. (Annexure R/3)

12. The said letters were returned by the Postal Department with the remark, "Iss naan ka koi firm Govindpur me pata nahi chalta hai, isiliye waapis kiya", meaning thereby that no firm by such a name was known in Govindpur, thus the letter was being returned. (Annexure R/4)

13. Consequently, the aforementioned letters were once again sent to the Branch Manager of the Corporation at Fatwah for getting it delivered through the process server to the concerned under Memo No. 154, dated 28/08/2009. However, these letters were also refused by the petitioner, and the Branch Manager, Fatwah, vide his letter dated 09/10/2009 contained in Letter No. 194, informed the Deputy Manager (Zone V), Bihar State Financial Corporation, Patna stating that they had contacted the Partner/Applicant Shri Lalit Kumar Sinha, and requested him to receive the ILRS order issued by the Head Office, but he did not receive the order and as such, the order of the ILRS could not be handed over

to the Promoter. The same was therefore sent to them under certificate of posting. (Annexure R/6)

14. Since the aforesaid order was not received by the Petitioner, and he failed to comply and make payment in terms of the Settlement order under the scheme, the same lapsed, and the Corporation received a tender from Respondent No. 4 Shri Mukesh Kumar Singh on 13/08/2010, who offered to purchase the mortgaged assets for a consideration of Rupees Four Lacs. However, on negotiation the said amount was raised by the tenderer, to the tune of Rupees Eleven Lacs. Nevertheless, the Corporation re-advertised the unit in the Hindustan Times and the Times of India, in the hope of obtaining a “best offer” on 29/01/2011. (Annexure R/7 and R/8) In the aforesaid notice, the original borrower and owners of the units were also informed that they should clear their dues within a month, and that they may keep in touch with the Corporation and in case the Corporation decides to sell the units, a registered notice will be sent to them, giving 21 days time to

retain the assets on matching terms after finalizing the sale-proposal. The notice, however, clarified that the Corporation would not take any liability for postal delay or misplacements.

15. In the supplementary affidavit filed by the Corporation it also brought to the notice of the Court true copies of the receipts issued by the postal department, indicating the reasons why the notice of the sale order which was issued under the registered cover to Shri Rameshwar Singh, Shri Dhurendra Singh, and Shri Lalit Kumar Sinha, Fatwah were returned undelivered. The Corporation has also submitted that so far as the valuation of the mortgaged assets was concerned, it took the necessary steps to get property valued by the Branch Level Valuation Team (BLVT), and after taking their report, on the basis of the local DSR rate and the cost of land at the market rate, and after considering the civil constructions made on the land, the BLVT accepted the value of the total assets at Rs 10,96,000, which was examined by the central valuation team of the

Head Office, and was found to be in order. The valuation of the land as fixed was considered to be correct, in view of the fact that an adjoining piece of land had been sold at a market value of Rs 48,000 against an area of plot measuring 364 square feet. Thus, the Corporation did take adequate steps towards a proper valuation of the assets and its actions cannot be termed to be laced with the vice of arbitrariness.

16. It was further submitted by the Corporation that the petitioner/promoter did not respond to the terms of the advertisement and after a lapse of the period of 21 days stipulated therein, the purchaser made payment of the consideration amount and also executed a sale cum balance loan agreement with the Corporation on 20/07/2011. Subsequently, physical possession of the mortgaged assets has been handed over to the purchaser on 09/11/2011. (Annexure R/10) Thus, the petitioner was given sufficient opportunity but he did not avail of the same, and is precluded from making false statement in this Court by stating that he had no notice of the sale, and

as such his prayer for the quashing of the impugned order is untenable both on facts and law, and is thereby fit to be rejected by this Court.

17. The learned counsel for the Corporation further pointed out that the petitioner is not entitled to relief under Art. 226 of the Constitution in view of the fact that he has made several false statements and tried to mislead this Court for misleading the court and taking an order in his favour, in as much as his statement in Para 26 of the Writ Application they have stated that the sale of the property was already made on 21/05/2007 which is patently wrong and misleading, as the sale order was issued only on 28/03/2011.

18. The learned counsel for the Corporation further submitted that it is relevant to point out that the Board of Directors of the Corporation, in it's meeting dated 21/05/2007, vide item no. 14065, had authorised and delegated the power to the Managing Director, for taking a decision of the sale of the mortgaged assets of the units that

were financed by the Corporations. Thus, it has been wrongly stated by the Petitioner that the sale of the unit had already been finalized on 21/05/2007. Moreover, so far as the issuance of notice is concerned, the Petitioner having refused to accept notice, such a ground is no longer available to him. So far as the issuance of a notice regarding the matching offer is concerned, the said was patent from the newspaper advertisement, and the petitioner ought to have taken adequate and necessary steps to meet the notice instead of alleging violation of principles of natural justice. Thus, on this count also the petitioner’s writ application is fit to be dismissed.

19. The Private Respondent No. 4 has also pitched in his claim and stated that they had purchased the tender documents on 13/08/2010, and after accompanying their tender with a deposit of Rupees One Lac, had made an offer for purchase of the mortgaged amount of the Petitioner, for a consideration amount of Rupees Four Lacs. It was further submitted that since the corporation did not

accept their offer, but instead called them for negotiations, the respondents thereafter agreed to enhance their offer to Rupees Eleven Lacs. The Corporation however, did not accept the aforementioned amount, and re-advertised the unit in the Times of India and the Hindustan Times on 29/01/2011, showing the offer in hand for purchase of the unit at Rupees Eleven Lacs, and invited a better offer from persons interested in buying the assets. Through the said notice, attention of the promoter of the unit was also drawn/invited with advice to take appropriate action should they be interested in retaining their unit. It was further averred by the Respondent No. 4, that since the Corporation did not get any better offer, and because the Petitioner did not respond to the notice contained in the advertisement to retain the unit on a matching basis, the sale order was issued by the Corporation in favour of the Private Respondent No. 4, and was to be made effective after a lapse of 21 days further time to the promoter to make a matching offer. As it transpires from the copy of the sale order, the same was to be sent to the Promoters of the unit, by registered post.

20. Learned Counsel for the Respondent No. 4 further submitted that they were required to deposit Twenty-Five Per Cent of Rupees Eleven Lacs (including the tender deposit of Rupees One Lac) before the handing over of the assets, and the execution of the sale cum mortgage deed within thirty days of the issue of sale order, if the original promoter fails to retain the unit within 21 days.

21. It was thus submitted that since the petitioner did not express any interest in retaining the unit, after a lapse of 21 days from the date of issue of sale order dated 29/03/2011, the Respondent No. 4 deposited a further amount of Rs 1,75,000 on 20/04/2011, being the balance of the cash component of the consideration amount, after taking into account Rupees One Lac which was deposited earlier by them as tender deposit. As such, the Corporation forwarded the draft agreement which was executed in respect of the balance consideration of Rs 9,25,000, treating it as a loan bearing an interest of 16 per cent, and payable

in instalments after handover of the mortgaged assets. Thus, the necessary documents were executed between the Corporation and the answering Respondents on 20/07/2011, and after deputing a Magistrate and Police force, the mortgaged assets of the petitioner were handed over to the Respondent No. 4, and the said documents dated 09/11/2011 was prepared in the presence of functionaries of the Corporation and also the District Administration. (Annexure C to the Counter Affidavit of Respondent No. 4)

22. It was also submitted by Private Respondent No. 4 that at the time of taking over, none of the Partners of the Company was present, nor was any staff available. Besides, the machines which were supposedly lying on the property had already been stolen, for which the Corporation had already taken action. The Respondent No. 4 further stated that even after the ILRS-2008 scheme, the Corporation circulated its OTS Scheme which was in operation from 17/08/2010 to 15/11/2010 vide it's circular

dated 17/08/2010, which was intimated to the entrepreneur by publishing a notice dated 21/08/2010, in "*Dainik Jagran*" and on 29/08/2010 in the Times of India, but that also elicited no response. It transpires that entrepreneur who had earlier applied for the restructuring under the ILRS-2008 scheme could have also taken benefit of the new scheme, but the Petitioner herein has tried to create an impression before this Court that he was precluded from taking advantage of the same, and the bald statement by the Petitioner that the Corporation told him verbally that since his application for restructuring is pending, the Petitioner could not avail of the OTS Scheme of 2009, and that the statement borders on falsehood, thereby disentitling them to the relief under Art. 226 of the Constitution.

23. It was, therefore, contended by the Respondent No. 4 that the Writ Application is fit to be dismissed since the contention of the Petitioner that he was unaware of the developments in respect to the sale of his unit, is wholly false, and now that the

assets have been taken over by the Corporation and handed over to the answering Respondents in the presence of the Magistrate and others deputed for the purpose, the Petitioner is precluded from raising any fresh claim, and/or getting the sale order (Annexure 5) cancelled by this Court. As such, the learned counsel submits that the writ application is fit to be dismissed.

24. I have heard learned counsel for the parties.

25. The writ application seeking extraordinary relief under Article 226 of the constitution has been preferred by the petitioner, for quashing an order issued by the Financial Corporation, wherein the mortgaged/hypothecated assets of the petitioner have been sold to the prejudice of the petitioner. The grounds urged before this Court are that the Corporation has acted in an arbitrary and unreasonable manner and with mala fide intention and for extraneous reasons, has issued orders for sale of its assets in favour of respondent no. 4. The main ground urged is that the notices for sale of such assets were never issued in a

legal manner and the petitioner had no notice and, therefore, there was clear violation of the Principles of Natural Justice. It was also urged that the respondent-Corporation did not follow the due process of law which was required for sale of mortgaged assets of an unit and, therefore, the petitioner was entitled to restoration of status quo ante and the writ application was fit to be allowed for the aforementioned reasons.

26. The grounds which have been raised are no doubt fit to evoke the response of the courts towards issuance of writ in favour of the petitioner but for the contentions, which have been raised by the respondent – Corporation in their counter affidavits. Apparently, from the averments in the counter affidavit, the petitioner was a recalcitrant borrower. The petitioner was sanctioned a loan in the year, 1981 and after the hypothecation of its assets which were offered by him for securing the said loan, an agreement was entered into between the parties, namely, the petitioner and the respondent – Bihar State Financial Corporation. It further appears that the petitioner could commence production only in the year, 1987. When and how the

unit functioned is not known, but it appears from the counter affidavit of the Corporation that a legal notice was issued to the petitioner in the year, 1992 itself under Section 30 and 29 of Bihar State Financial Corporation Act. The said notice failed to evoke any response from the petitioner. However, in the year, 2008, the Corporation had floated a scheme for non-performing assets so that settlements could be made between the parties whose assets had gone – NPA. This was known as ILRS 2008. Prior to this, when the notices were issued under Sections 30 and 29 of the Bihar State Financial Corporation Act and when the petitioner failed to respond to any such notice, the Corporation had advertised the mortgage assets under the continuous sale policy on 25.06.1995 itself. However, this advertisement under the continuous sale policy was ineffective, as the Corporation did not receive any tender and the promoter had also failed to take any steps towards payment of the corporation dues. So far as ILRS 2008 is concerned, the petitioner submitted his application for settlement of dues along with the 10 percent principal amount which was duly considered by the Corporation and after necessary consideration in terms of the aforementioned scheme, a settlement of dues and order of settlement was communicated to the petitioner. Shri Lalit Kumar Sinha and also to the concern under Memo NO. 137 dated 19.08.2009 (Annexure R/3). The said letters were sent to the petitioner but were returned by the postal department, stating that the firm of such name did not exist at Govindpur. Accordingly, the said letters were forwarded to the Branch Manager of the Corporation at Fatwah for getting it delivered through the process server to the Branch Manager of the Firm on 28.08.2009 vide Memo No. 154. Despite efforts by the Branch Manager, the Partner/Applicant Shri Lalit Kumar Sinha did not receive the order under the ILRS issued by the Head Office and accordingly, vide letter no. 134 dated 09.10.2009, the Branch Manager, Fatwa informed the Head Office that the said Shri Lalit Kumar Sinha did not receive the order. Therefore, the same was sent to them under certificate of posting (Annexure R/6). Thus, this Court is of the opinion that the Corporation did take necessary steps to communicate its letter and the offer having been ignored by the petitioner, as the same was refused by them, could not amount to any violation of Natural Justice.

27. So far as the conduct of the Corporation is concerned, the subsequent acts of the petitioner also do not find favour with this Court. It appears from the counter affidavit filed by the Corporation, that not only did the efforts of the process server and the Branch Manager fail but also between the year 2009-2010, the petitioner failed to take any steps towards making payment of the loan which he had taken from the Corporation. It was only under such circumstances that the Corporation proceeded to receive the tender from respondent no. 4 who on 13.08.2010 offered to purchase the mortgage assets for a consideration of Rs. 4 lakhs. Since the offer was substantially low, the Corporation did not accept the same, even though on negotiation, respondent no. 4 had enhanced the amount to the tune of Rs. 11 lakhs. Thus, keeping the interest of the Corporation in mind and for the purposes of obtaining a “best offer”, the Corporation once again re-advertised the unit on 29.01.2011 (Annexure- R/’7 & R/8). In the aforesaid notice, the original borrowers and owners of the

unit were also informed that they should clear their dues within a month and that they may keep in touch with the Corporation. It was further contended that if at all the Corporation decided to sell the unit, a registered notice will be sent to them, giving 21 days time to retain the assets on matching terms. Even so, the petitioner did not respond to such notice and though the Corporation gave them 21 days time to retain the assets on matching terms after finalizing the sale proposals, no corresponding offer came back from the side of the petitioner and finally the same was sealed in favour of respondent no. 4 and the purchaser made payment of the consideration amount and also executed a sale/balance loan agreement on 20.07.2011. Subsequently, the mortgage assets were handed over to the purchaser on 09.11.2011. It thus, appears to this Court, that the deed was finalized well before the petitioner came to this Court and it was only because the petitioner had indulged in *suppretio veri* and *suggestio falsi,* that this Court was persuaded to look into matter and issue an interim order in its favour. The reason why this court has come to this finding is that the petitioner after availing the loan sat over the matter and did not venture to repay the same. His shoddy attempts to run the units which ultimately collapsed. Thereafter, the petitioner sat over the matter for a good many years. It also failed to respond to the notice issued to them under Section 30 and 29 of the Bihar State Financial Corporation Act and after more than two decades have made vain attempts to revive the unit by placing an application under the ILRS scheme of 2008. Though the corporation was indulgent enough towards the petitioner and sent them a notice for reviving his unit after making payments, the petitioner once again sat over the matter and did not even accept the letters which were sent to him. However, in the writ application, a bald statement has been made that the application of the petitioner under the ILRS scheme 2008 was not decided by the Corporation. In the wake of the submissions which have been duly supported by annexures appended to the counter affidavit by the respondent, this statement by the petitioner appears to be wholly false and misleading and thus, on this ground also, the Court cannot grant relief. The basic principal for maintaining and seeking relief in an application under Article 226 by the petitioner, is that he must come to this Court with clean hands which is apparently wanting the present context.

28. Another false suggestion has been made in the writ application that the petitioners were precluded from availing the benefits of 2009 scheme. The OTS 2009 scheme could not be maintained by the Corporation on the sole ground that the petitioner's application under 2008 ILRS scheme had been entertained. Moreover, there was a specific provision *inter alia* in the OTS scheme 2009 (Annexure- D series of counter affidavit of respondent no. 4) that it bars the beneficiary of the IRLS 2008. Moreover, if at that point of time, the petitioner was aggrieved by the action of the Corporation for not allowing them to participate and avail the benefit of OTS scheme 2009, it was open to them at that point of time, to challenge the decision of the Corporation. Another mis-statement by the petitioner is that this Corporation had finalized the same on 21.05.2007 itself, is also a wholly false statement as the date 21.05.2007 is the date where the Board of the Corporation had delegated its power to the Managing Director and in exercise of

such powers bestowed on him vide the aforesaid decision of the Board, the Managing Director had passed the sale order on 28.03.2011.

29. Moreover, the Corporation has also brought on record the valuation reports and its consideration in the instant case, and the sale which has been made in favour of respondent no. 4 after due consideration thereof. It appears that the Corporation had conducted a valuation and the Branch Level Valuation Report indicated that the market value at the time of valuation i.e. 28.01.2009 was Rs. 4 lakhs per katha where as the current rate fixed by the District Sub Registrar for commercial land was Rs. 75, 000/ per decimal or Rs. 2.19 lakhs per katha. Thus, as per market value, the cost of the land was Rs. 9 lakhs where as as per DSR rate, the value was 4.93 lakhs. Thus, after including the cost of land on market rate and, thus, civil construction which were availed on the said land and while deducting the depreciations value as per approved guidelines, the BLVT accepted the value of the total assets of the mortgage/hypothecated property to be 10.96 lakhs. Therefore, the contention that the

property was given away at much a lower rate without any valid valuation is also not accepted to this Court in view of the explanation and the report produced by the Corporation. Thus, on this ground also, the writ application is fit to be dismissed.

30. In the result, this Court for the aforesaid reasons and after appraising all the facts and circumstances of the case, has come to the considered opinion that the writ application does not warrant interference by this Court and the petitioner having come to this Court with unclean hands, could well be punished by dismissal of the writ application.

31. The writ application stands rejected.

(Anjana Mishra, J)

Jagdish/-

AFR/NAFR	AFR
CAV DATE	11.07.2018
Uploading Date	12.10.2018
Transmission Date	12.10.2018