

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1641 of 2019

In

Civil Writ Jurisdiction Case No.5834 of 2017

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Satya Narain Rai S/o Late Ram janam Rai @ Ramajanam Ray Resident of Village- Maricha, P.S.- Garkha, District- Saran, erstwhile Managing Partner of then the M/s Saroj Cold Storage, Partnership firm Situated at Village- Aloani, P.S.- Garkha, District- Saran.

.. ... Appellant/s

Versus

1. The Bihar State Financial Corporation through its Managing Director, Head Office at Frazer Road, P.s.- Kotwali, Town and District- Patna
2. The Managing Director The Bihar State Financial Corporation, Head Office at Frazer Road, P.s.- Kotwali, Town and District- Patna
3. The Deputy Manager I/c (Z-III) The Bihar State Financial Corporation, Head Office at Frazer Road, P.s.- Kotwali, Town and District- Patna
4. The Branch Manager The Bihar State Financial Corporation, House No. B-2, Dwarka Mandir, Professor Colony, Near Aghoria Bazar, Muzaffarpur-842002
5. The Branch Manager The Bihar State Financial Corporation, Saran Branch, Chapra
6. The Deputy Manager The Bihar State Financial Corporation, Saran Branch, Chapra
7. Dani Mordhwaj Cold Storage (P) Ltd. Saran through its proprietor, Ram Babu Rai, aged about 62 years, male, S/o Late Ram Janam Rai, resident of Village- Lodipur Chirand, P.o.- Chirand, District- Saran

... ... Respondent/s

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Appearance :

For the Appellant/s : Mr.Vagisha Pragya Vacaknavi

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

and

HONOURABLE MR. JUSTICE NAWNEET KUMAR PANDEY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 15-12-2022

Heard Mr. Binod Kumar Singh, learned

Advocate for the appellant who has questioned the order

dated 13.11.2019, passed by a learned Single Judge of



this Court in CWJC No. 5834 of 2017. The auction sale in question, the Single Judge has observed, took place way back in the year 1992 and the property was taken over on 23.01.1992. The Bench, on finding that the cause of action had taken place approximately 29 years ago, dismissed the petition on grounds of laches.

Mr. Singh, however, taking reference of Section 17 of the Limitation Act, 1963, has argued that the period of limitation for assessing laches on the part of the appellant would commence from the date when the fraud is detected.

The aforementioned submission of the appellant is not borne out by the records of this case.

According to the own showing of the appellant, who is one of the partners in M/s Saroj Cold Storage, was given a loan of Rs. 12 lakhs, repayable in installments. The project cost estimated by the Corporation was Rs. 16 lakhs. The commissioning of the project was delayed for the reason of the Bihar State



Financial Corporation not having made available the working capital. Despite the financial constraints, the unit was set up, but for non-payment of dues, the property was auctioned and sale was executed in favour of one Sanjay Kumar. Against the aforesaid order of auction and sale, the appellant had approached this Court vide CWJC No. 3418 of 1991, in which the sale order was stayed, but the appellant was asked to pay up Rs. 5 lakhs to the Finance Corporation by a particular date.

Be that as it may, the property was put to second auction and sale and, in the second instance, one Ram Babu Rai purchased the aforesaid property. However, since the appellant was in possession of the said property, the purchaser/ Ram Babu Rai could not get physical possession of the mortgaged property. Thereafter, a Title suit (T.S. No. 73/96) was instituted by the appellant, seeking declaration of the auction sale in favour of Ram Babu Rai to be *void ab initio* as also on



the ground that the property worth Rs. 52 lakhs, ought not to have been auction sold for recovering only an amount of Rs. 5.50 lakhs against the dues of Rs. 22 lakhs.

In the aforementioned Title suit, the further prayer was of re-scheduling the payment of loan as also an one-time settlement.

These facts clearly reveal that the appellant was in know of all the developments.

Thus, we find no good reason to interfere with the order of the learned Single Judge, who has dismissed the writ petition on the ground of laches.

The appeal is accordingly dismissed, but with no order as to costs.

(Ashutosh Kumar, J)

(Nawneet Kumar Pandey, J)

SONALI/-HR

AFR/NAFR	NAFR
CAV DATE	NA
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