23.02.2026
Court No.13
Item No.6
AP

FMA 279 of 2014

Amalendu Singha
Vs.
Sri Sudarsan Patra and Ors.

Mr. Subrata Kumar Basu
Mr. Sanatan Manna
Mr. S. Sen
Mr. N. Paul
Ms. Nilanjana Ghorui
... For the Appellant.

Mr. Dhiman Kumar Sengupta
Ms. Farhin Mustaque
... For the Respondent/Smt. Shilpa Jana.

Mr. Ankit Sureka
Mr. Biplob Das
... For the Respondent Nos.2 & 3.

Mr. Pabitra Charan Bhattacharjee
Mr. Sovan Nayak
... For the Respondent Nos.8 & 10.

1. The appeal is directed against an order dated 7th October, 2013 passed by a Single Bench of this Court in WP 19948 (W) of 2003.

2. A prior judgement delivered on the same lines says that the impugned order was challenged in appeal by a person claiming to be a subsequent purchaser of the property mortgaged to the Contai Cooperative Agricultural and Rural Development Bank Ltd. The said bank is governed by the provisions of the WBCS Act of 2006 and its predecessors.

3. Admittedly, four properties belonged to the respondent No.8 in WP 19948(W) of 2003 namely Nonigopal Singha. He was also a director of the bank.

Loans and advances were given to the said Nonigopal Singha by the bank against the mortgage of the said four properties in question. The said Nonigopal Singha subsequently sold the properties in favour of Mr. Dhiman Kumar Sengupta's client. It would, therefore, follow that the purchase by the Mr. Sengupta's client of the said four plots of the land is subject to the bank's mortgage.

4. Upon failure on the part of the respondent No.8 in WP 19948(W) of 2003 namely Nonigopal Singha to repay the dues of the bank proceedings for sale of the mortgaged/distrained property were commenced.

5. It is recorded by the Single Bench that the auction sale and/or of the distrained property was a result of a deliberate and willful default by the respondent No.8 in WP 19948(W) of 2003 namely Nanigopal Singha.

6. Be that as it may, there are findings by the Single Bench that the auction was not conducted strictly in terms of the rules prescribed therefor. It is recorded by the Single Bench that the auction was conducted at a place far away from the mortgaged property and there was no proper advertisement or even a proper valuation of the property was not made before sale.

7. Curiously while noting several infirmities in the mortgage and sale, the collusion and fraud perpetrated by the respondent No.8 namely Nanigopal Singha on the bank, the Single Judge in the last paragraph upheld the

sale and directed confirmation of the same in favour of the appellant. The Single Judge has ordered as such despite finding that the property should have fetched more than the auction price offered by the appellant hereinabove.

8. It is now well-settled that a statutory auction must be conducted strictly in terms of the rules prescribed therefor.

9. The Single Bench having found that the sale having been conducted in violation of the rules, could not have directed confirmation of the sale in favour of the appellant.

10. Having regard to the above discussion, this Court directs that the entire sale process of the property mortgaged to the bank shall stand set aside.

11. The appellant auction purchaser shall be returned the amount put in for purchase of the four plots of land, if actually paid, together with simple interest at the rate of 6 percent per annum from the date of the payment of entire sale consideration till the date of actual return of payment.

12. Mr. Sengupta submits that his client has paid the bank the dues under the advance against the mortgage in question. Any sums paid by Mr. Sengupta's client to the bank towards advance against the mortgage in question

shall also be returned to the alleged subsequent purchasers by the bank after due verification of records together with simple interest at the rate of 6 per cent per annum.

13. The properties in question shall be put up for sale free from all other encumbrance in terms of the WBCS Act 2006 and Rules of 2011 framed thereunder within a period of two months from the date of communication of a copy of this order.

14. The bank shall be entitled to recover the entire principal sum together with the agreed rate of interest along with all costs and charges from the respondent No.8 in WP 19948(W) of 2003 namely Nanigopal Singha/principal debtor. Due valuation of the property shall be effected before sale and a reserve price shall be fixed. The sale shall be duly advertised in two vernacular newspapers and one English newspaper published within the jurisdiction of the properties mortgaged and the branch of the bank in question.

15. After completion of sale in accordance with law, the bank shall appropriate the sale proceeds to the extent of principal sum and the all accrued interest thereon as on date. All costs and charges incurred by the bank shall also be recovered from the sale proceeds.

16. All sale deeds executed and mutation effected in favour of any person pursuant to earlier auction of the

mortgaged property in question are hereby declared null and void and shall stand cancelled. All and any parties shall be at liberty to participate in the fresh sale auction conducted by the bank.

17. With the aforesaid observation, FMA 279 of 2014 is disposed of. Consequently, all connected pending applications, if any, are also disposed of.

18. There shall be no order as to costs.

19. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

(Md. Shabbar Rashidi, J.)