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(2016) 08 SC CK 0204

In the Supreme Court Of India

Case No : Civil Appeal No.8163 of 2016 (Arising out of SLP(C) No.28762 of 2015)

Baldev Singh APPELLANT

Vs

State of Punjab and Ors. RESPONDENT

Date of Decision : 17-08-2016

Acts Referred:

Constitution of India, 1950 — Article 133
State Financial Corporations Act, 1951 — Section 29

Citation : (2016) 08 SC CK 0204

Hon'ble Judges : Ranjan Gogoi and Prafulla C. Pant, JJ.

Bench : Division Bench

Advocate : Ujjal Singh, J.P. Singh, For R.C. Kaushik, Advocates, for the Appellant; Arun K. Sinha, Rakesh Singh, Sumit Sinha, Sanchar Anand, AAG, Apoorv Singhal, Ms. Bhavna Gupta, Devendra Singh, Advocates, for the Respondent

Final Decision : Disposed Of

Judgement

1. Leave granted.

2. Heard the learned counsel for the appellant and perused the relevant material.

3. The only point for consideration in the present case is the period for which the interest would be chargeable on the appellant-borrower by the Punjab Financial Corporation (For short, ''the Corporation'').

4. The appellant contends that the possession of the property was taken over on 31.08.1999 under Section 29 of the State Financial Corporation Act, 1951 and the same was sold on 07.12.2011. Hence, according to the appellant, interest could not have been charged for the aforesaid period i.e. beyond 31.08.1999 upto 07.12.2011 in determining the total amount payable. It may be noted, at this stage, that from the sale in question an amount of Rs. 42,00,000/- (Rupees forty two lakhs only) has already been realized.

5. To controvert the aforesaid submissions made on behalf of the appellant, the

Corporation has filed an affidavit before this Court giving the details of the date of initial taking over of possession of the property, which was some time in the year 2002 and the fact that the possession was taken in part and the possession of the entire premises was taken over finally on 15.09.2005.

6. In the counter affidavit filed by the Corporation, it has been further stated that thereafter the matter was processed for approval of the concerned authorities for sale of the property which was granted on 15.06.2009.

7. Pursuant to the aforesaid approval, sale notice was issued and the property was sold on 07.12.2011, after giving an opportunity to pay the amount due.

8. Notwithstanding the fact that the possession of the property was taken over by the Corporation in the year 2002, the materials on record disclose that such possession was only in part. That apart, the articles and other items belonging to the appellant was lying in the premises. In such circumstances, the sale could not have been effected by the Corporation under Section 29 of the Act. Possession was finally taken over on 15.09.2005. Even otherwise, mere taking over of possession by the Corporation could not have dis-entitled the appellant from discharging his liabilities by tendering the amount due. No such payment or offer of payment was made by the appellant. In these circumstances, we have to hold that there is no merit in the contentions advanced on behalf of the appellant and consequently there is no infirmity in the order of the High Court.

9. However, as we have already recorded that the decision of the Corporation to go for the sale of the property was taken on 15.06.2009, we hold that the Corporation can legitimately charge interest only upto the said date i.e. 15.06.2009 and not for the period thereafter upto the date of sale of the property i.e. 07.12.2011. Accordingly, we modify the order of the High Court and direct the Corporation to take its further action in the matter on the basis of the liability of the appellant-borrower to pay interest upto 15.06.2009 and not upto 07.12.2011.

10. With the aforesaid modification, the appeal is disposed of.

