(2002) 12 SC CK 0022

In the Supreme Court Of India

Case No : Civil Appeal No. 3650 Of 1999

Punjab State Industrial Development Corpn. Ltd. and Another — APPELLANT

Vs

Chadha Papers Ltd. — RESPONDENT

Date of Decision : 11-12-2002

Acts Referred:

Companies Act, 1956 — Section 446
Recovery of Debts Due to Banks and Financial Institutions Act, 1993 — Section 25
State Financial Corporations Act, 1951 — Section 29, 46B

Citation : (2005) 123 CompCas 866 : (2003) 9 SCC 165

Hon'ble Judges : G. B. Pattanaik, C.J;K. G. Balakrishnan, J

Bench : Division Bench

Final Decision : Disposed Of

Judgement

1. This appeal is by Punjab State Industrial Development Corporation (hereinafter referred to as "PSIDC") against the judgment of the Punjab and Haryana High Court. The industrial undertaking called Northland Sugar Complex Ltd. (hereinafter called the Company) had taken loan from PSIDC and having failed to pay the instalment dues, the assets of the said Company were taken over by PSIDC in exercise of power u/s 29 of the State Financial Corporations Act, 1951 (for short "the Act"). The said assets of the Company were purchased by the present respondent in a public auction for a sum of Rs. 45,00,00,007 and a deed of agreement was executed between the respondent and PSIDC. The respondent having failed to discharge its obligation of payment of the consideration money as per the instalments indicated in the agreement, PSIDC took action u/s 29 of the Act which order was assailed before the High Court by the present respondent. The High Court having set aside the said order, PSIDC is in appeal.

2. In course of the hearing of this appeal, a letter addressed by the respondent to the Managing Director of PSIDC dated 13-8-2002 was produced before us whereunder the respondent has proposed to pay a sum of Rs. 15.50 crores as

settlement of the final dues of the Corporation on certain terms and conditions mentioned therein. Mr. Mahabir Singh appearing for the appellant Corporation, on the other hand, submitted that there has been unusual delay on the part of the respondent in payment of the instalments due and the amount recoverable from the respondent up to 10-12-2002 Would work out to Rs. 21,37,79,862.

3. Without entering into the contentious issues about the calculations made with regard to the dues of PSIDC from the respondent, bearing in mind that the financial institutions and the banks very often come forward with the policy of one-time settlement, we think the amount of Rs. 15,50 crores offered by the respondent will be an adequate consideration towards the value of the assets which the respondent had purchased from PSIDC in final settlement of all claims and dues of PSIDC. We, therefore, dispose of this appeal on the following terms:

(a) The respondent shall pay a sum of Rs. 50 lakhs within two weeks from today either by cash or by bank draft to PSIDC.

(b) The respondent shall pay a further sum of Rs. 7.50 crores to PSIDC on or before 31-10-2003 and the balance sum of Rs. 7.50 crores on or before 31-7-2004.

(c) Failure on the part of the respondent on any of the aforesaid terms regarding payment would entail forfeiture of its right on the premises and it would be open for PSIDC to take over the property back in exercise of power u/s 29 of the Act,

(d) PSIDC shall execute the necessary deed of title within four weeks from today in favour of M/s Guru Teg Bahadur Sugars Ltd. (for short "GTBSL") which Company is stated to be a subsidiary company of M/s Chadha Papers Ltd., the present respondent and it is stated by Mr. Rakesh Dwivedi appearing for M/s Chadha Papers Ltd. that the execution of deed in favour of GTBSL which is a subsidiary company of M/s Chadha Papers Ltd. would be in the interest of all concerned and M/s Chadha Papers Ltd. cannot claim anything from PSIDC on that score, in the event of any defect being found in the execution of the deed.

4. The appeal stands disposed of on the aforesaid terms. It was stated to us by Mr. Mahabir Singh appearing for PSIDC that the company, Northland Sugar Complex Ltd., has already been under liquidation and the liquidator has issued notice in the pending company petition before the High Court of Punjab and Haryana and therefore, until the leave of the Court u/s 446 of the Companies Act is obtained, it may not be possible to execute any deed in favour of either M/s Chadha Papers Ltd. or its assignee. We do not find any difficulty therein, inasmuch as the assets of the Company on being taken over by PSIDC, the said Corporation under law becomes the owner of the property as provided u/s 29 of the Act. Further in view of Section 46-B of the Act, the provision of the said Act would apply notwithstanding anything inconsistent contained in any other law for the time being in force. In fact, an identical provision contained in the Recovery of Debts Due to Banks and Financial Institutions Act, 1993, was considered by a Bench of this Court in Allahabad Bank Vs. Canara Bank and Another, . The ratio

of that case would equally apply to the case in hand.

