

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH.

C.O.C.P. No. 1612 of 2003.

Date of Decision: October 31, 2006.

M/s Subhadra Fabrics

....**Petitioner**

through
Mr. J.S.Bhatti, Advocate

Versus

Haryana Financial Corporation & Ors.

...**Respondents**
through
Mr. Kamal Sehgal, Advocate.

CORAM:

HON'BLE MR. JUSTICE SURYA KANT.

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

SURYA KANT,J.(ORAL)

The petitioner filed CWP No.1947 of 1998 in which a writ in the nature of certiorari was sought for quashing of the order of auction of the unit, namely, M/s Cargo Papers Limited.

Some of the relevant facts may be noticed. The petitioner gave the highest bid for the purchase of the industrial unit being run in the name and style of M/s Cargo Papers Limited for an amount of Rs.11 lacs. The petitioner deposited a sum of Rs.1,50,000/-on 5.7.1995. As the Haryana Financial Corporation received another offer also, the above named industrial unit was re-auctioned in which the petitioner gave the bid of Rs.16.5 lacs. Its bid was accepted and confirmed. After depositing another

sum of Rs.2.5 lacs, an agreement to sell was executed on 14.8.1996 between the petitioner and the Haryana Financial Corporation. The petitioner, however, failed to deposit the balance amount offered to be paid in equal quarterly installments starting from 1.11.1996. The Haryana Financial Corporation accordingly took over the unit under Section 29 of the State Financial Corporation Act, 1951 and when it wanted to auction the same, the petitioner impugned the said action by way of the afore-stated writ petition.

A Division Bench of this Court vide judgment dated 20.8.1998 dismissed the petitioner's writ petition not only on merits but also after observing that the petitioner had concealed the material facts and, therefore, it was not entitled to equitable relief. After dismissing the writ petition, the Bench, however, directed the Haryana Financial Corporation “to refund the amount deposited by the petitioner within four weeks after making deduction as may be permissible under law”.

The petitioner thereafter filed Review Application No.23 of 1999 which was dismissed by this Court by a detailed order dated 21.9.2001. It further appears that the petitioner filed an SLP which too was dismissed by the Hon'ble Supreme Court.

Relentless, the petitioner then filed Civil Misc. No.11789 of 2005 in the aforesaid writ petition seeking initiation of criminal proceedings against the officers of the Corporation. The said application has also been dismissed by this Court by a reasoned order dated 20.1.2006.

Meanwhile, this contempt has been filed alleging, inter-alia, that the last part of the judgment dated 20.8.1998 whereby the HFC was directed to refund the amount deposited by the petitioner after making

deduction as may be permissible under law, has not been implemented.

In response to the show cause notice, reply has been filed on behalf of respondents No. 1 to 4. In the aforesaid reply, it is stated that in compliance to the aforementioned direction issued by this Court, the petitioner was informed vide letter dated 8.1.1999 that the entire amount deposited by it has been forfeited in terms of clause 4(iv) of the agreement to sell executed by the petitioner with the respondent Corporation. A copy of the aforesaid letter has been appended as Annexure R-1. Learned counsel for the petitioner, however, contends that no copy of the aforesaid letter was supplied to him nor the same appears to have been sent to the petitioner. A copy of the said letter has, however, now been supplied to the learned counsel for the petitioner.

Be that as it may, in view of the fact that the amount deposited by the petitioner, was to be refunded after making deduction as may be permissible in law and according to the Corporation, they are entitled to forfeit the entire amount as per the clause contained in the agreement to sell, this petition is disposed of with liberty to the petitioner to impugn the aforementioned communication dated 8.1.1999 before an appropriate forum, if so permissible and advised to it.

Rule discharged.

October 31, 2006.
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(**SURYA KANT**)
JUDGE