

1977 KHC 813

Supreme Court of India

**V. R. Krishna Iyer; A. C. Gupta, JJ.*

Gowrisetti Venkataiah v. District Collector, Karimnagar

C. A. No. 872 of 1968

25 September, 1975

Contract - Abkari Act, 1316F (Hyderabad), S.25 -- Sale of property of abkari contractor for realisation of arrears -- Auction purchaser paying 25% of sale price and remaining 75% deposited in court within 30 days of notice -- High Court setting aside sale holding that 75% of sale price was deposited beyond time -- Held, that it was a slip of the High Court -- Order was liable to be quashed. (Para 2)

JUDGMENT

Krishna Iyer, J.

1 The controversy in this case may, without caricature, be described as a storm in a tea cup. A sale of the property of the 2nd respondent, who was an Abkari Contractor in arrears, was held by the Tehsildar and the purchaser, the highest bidder, is the appellant. The bid amount for which the sale was knocked down was Rs. 4050/-. Although the total amount due from the Abkari Contractor was Rs. 8,000/- odd, part of it was penalty for default in payment, which eventually was waived by the State Government. Thus, what was realisable from the Contractor was only Rupees 5429.67. The sale having fetched Rs. 4050, a balance of Rs. 1379.67 is all that the State is entitled to get. In the light of what we propose to hold and, on a suggestion from the Court, the appellant has agreed to deposit the balance of Rs. 1379.67 rounded off into Rs. 1380/- into the Treasury within one month from today.

2. The litigation itself arose by way of a writ petition challenging the setting aside of the sale by the Board of Revenue. According to the appellant auction purchaser, there was no legal ground or even power to set aside the sale which had already been confirmed. The High Court, at the second tier, i. e. in appeal before the Division Bench, took the view that the sale was bad and liable to be set aside on the short ground that the balance of 75% of the sale price had not been deposited within 30 days of the receipt of the notice as required by S.135 (b) (2). We have been taken by counsel for the appellant, Shri Gupte, through the basic facts necessary for appreciating his contention that his client had actually made the deposit within 30 days. It is a simple case of slip up on the part of the High Court. Therefore, we see no way to uphold the finding of the High Court that the deposit was made beyond time and the sale was void. In the result, we allow the appeal, hold the sale good but direct as earlier stated that the appellant do deposit Rupees 1380/- which means that the State would have realised the entire arrear due from the Abkari contractor. It is worthwhile noticing that the latter has not cared to appear in this Court or contest the claim of the appellant that the sale be upheld.

3. We allow the appeal and confirm the sale with the directions above indicated. We do not go into any of the other questions which the appellant wanted to raise but, in the light of our finding, have become unnecessary. The parties will bear their own costs. The order will be communicated to the District Collector of Karimnagar forthwith.