

PETITIONER:
CENTRAL BANK OF INDIA

Vs.

RESPONDENT:
M/S. MADAN LAL & BROTHERS & ORS.

DATE OF JUDGMENT 01/11/1995

BENCH:
RAMASWAMY, K.
BENCH:
RAMASWAMY, K.
KIRPAL B.N. (J)

CITATION:
1995 SCC Supl. (4) 213 JT 1995 (9) 129
1995 SCALE (6) 353

ACT:

HEADNOTE:

JUDGMENT:

O R D E R

It is stated that respondents 5-7 are the legal representatives of respondent No.4. Therefore, the need to substitute them is obviated. They would represent the estate of the deceased-4th respondent.

Leave granted.

We have heard the counsel on both sides. In all fairness, the counsel for the respondents had stated that hypotheca, namely, the factory premises situated at G.T. Road, Phagwara, ground floor marked as A, B, C, D, E, F, G, H, and I together with all structure existing thereon, with all the shade, Kothas, boundary walls etc. etc. as mentioned in the Schedule to the plaint be assessed at its market value as on date and may be put to execution. The amount realised out of sale thereof would be credited to the account of decree in question. In case the property is not sufficient, then it would be open to the respondents to proceed for the recovery of the dues by proceeding against other orders or proceedings accordance with law. We appreciate the fair stand taken by the learned counsel for the respondents. Accordingly, the appellant is at liberty, in the first instance, to proceed with the sale of the aforesaid property and realise the decretal debt from the sale proceeds and to have the same satisfied with the decree in execution. In case there is any shortfall, it would be open to the appellants to proceed against any other assets or personally against any other defendants in accordance with law. If sale proceeds are in excess, it is needless to mention that the amount in excess of the decretal amount would be paid over to the respondents.

The appeal is accordingly disposed of. No costs.