



amount of bid / auction price, they had preferred two Special High Court Appeals bearing No.288 and 299 of 2015, which have been dismissed vide order dated 14.10.2015 by a bench headed by the Hon'ble Chief Justice. The only objection raised by the Counsel for the appellant is that no order of sale could have been passed on an application under Section 16 of the Ordinance, 2001.

No doubt, Section 16 of the Financial Institution (Recovery of Finances) Ordinance, 2001 provides for attachment of a property before judgment or appointment of a Receiver with intent to preserve the mortgage pledged, hypothecated, assigned or otherwise charged property to protect the interest of the financial institution, however, it does not mean that the Banking Court has no power to sell the movable property so attached if the property is perishable and/or losing its value or utility for the simple reason that a Banking Court while exercising civil jurisdiction has all the powers vested in a civil Court under the Code of Civil Procedure 1908 and to protect the interest of both the parties has powers to pass all just and equitable orders. Perusal of the order impugned reflects that the pledge cotton bales as per report of Official Assignee were quite old and were deteriorating rapidly. The Court further to strike a balance has directed the sale through public auction and investment of sale proceeds in Government Profitable Scheme, the order therefore appears to be unexceptionable.

Additionally, the order impugned before us has already been acted upon and it was for the appellant to raise such objection before the bench who was seized with their appeals in respect of the auction proceedings being carried out on the basis of the impugned order. Notwithstanding this, it further reflects from our record that the appellant had also impugned the same order passed in another Suit bearing No.B-63 of 2012 between the same parties by filing Special HCA No 330 of 2015 which we have already dismissed on 19.11.2015 for non-prosecution.

In the circumstances, we do not find any substance in the instant appeal as the appellant has failed to make out any case for indulgence. Accordingly the same is hereby dismissed along with all pending applications.

JUDGE

JUDGE