

Authorized Officer, SBI v. Rakesh Singh

Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 – Dead person – Sale – . The proceeding conducted against a dead person is bad in law – LR's of borrowers/respondent not brought on record – After the sale notice was issued on 6.11.2018 and thereafter on 26.11.2018, the respondent no.1 had informed the Bank about the death of the deceased KD on 21.11.2018 and the Bank had also asked for the details of the legal heirs and representatives of the deceased – It was imperative for the Bank to have substituted the legal heirs and representatives of the deceased – Bank had sold the property of a dead person on 10.12.2018 – The purpose of giving a 30 days' sale notice is that the owner/borrower be given an opportunity to plead before the Bank to liquidate the dues and give an opportunity to the persons to whom the notice had been issued may point out any discrepancy in the proceeding – Since the legal heirs and representatives had not been brought on record, the auction was definitely erroneously done and so was the sale certificate issued erroneously

Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 – Issuance of sale certificate does not oust the borrower and the guarantors to raise issues with regard to discrepancy, if any, committed by the Bank in the proceedings.

Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 – Borrower/guarantor always had the right to get the dues paid off before the auction of the property was done as till the auction, no third party right had been created.

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