

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.1710 of 2015

In
Civil Writ Jurisdiction Case No. 4267 of 2013

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The Authorized Officer, Uco Bank, & Anr

.... Petitioner/s

Versus

M/s Rajmati Cold Storage Pvd. Ltd. & Anr

.... Respondent/s

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CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA
ORAL ORDER

3 02-09-2015

Heard learned counsel for the petitioners and learned
counsel for the opposite parties.

On the last occasion, this Court had orally expressed its
view that the order dated 7.3.2013 passed in C.W.J.C. No.4267 of
2013 needs to be modified as it was standing in the way of the
Bank being able to realize its dues against opposite party No.1
under Securitization and Reconstruction of Financial Assets and
Enforcement of Security Interest Act, 2002, upon which learned
counsel for opposite party No.1 prayed for time till 31.08.2015 to
deposit Rs.50 Lacs with the further prayer to be thereafter granted
instalments for paying the balance amount till March, 2016.

Today learned counsel for opposite party No.1 submits
that despite all efforts, opposite party No.1 is unable to pay the
amount of Rs.50 Lacs and only Rs.10 Lacs could be arranged by
it.

In view of the failure of opposite party No.1 to comply

with its own proposal and show its bona fides in the matter, the modification petition itself is being heard on merit.

The present application has been filed by the Bank, which was the respondent in the writ petition being C.W.J.C. No.4267 of 2013, for modification of the order dated 7.3.2013 passed therein, wherein the direction was given to the Bank to proceed for the sale of the entire land except that on which the Cold Storage stands, to allow the Bank to put on auction-sale the entire land along with the Cold Storage of respondent No.1.

The aforesaid auction sale had been ordered by the Bank in the course of the proceedings initiated by the Bank under the SARFAESI Act. The petitioner had before this Court come with the suggestion that the Bank may be permitted to sell the vacant land abutting the Cold Storage so that its business may remain protected.

It is submitted that the Bank thereafter published e-auction sale notice under Section 13 (A) of the SARFAESI Act, 2002 on 20.6.2014 fixing the date of auction-sale on 25.7.2014.

It is pointed out that the sale notice was duly published and thereafter another writ petition was filed by opposite party No.1 with regard to the valuation of the vacant land in which the auction-sale had been stayed by this Court. Pursuant to the



subsequent sale notice, no one has come forward. It is submitted that the lands in question are vacant plots and almost all the plots are used for brick-kiln and most of the land is low land due to excavation for brick manufacturing and suffers from water logging and, therefore, no bidder/purchaser turned up to participate and purchase the plot in question on the date of auction-sale.

It is further pointed out by learned counsel that the property in question was separated into 10 plots mentioning the area of the land, minimum reserve price and earnest money deposit with respect to each plot, yet for the reasons stated above, no one has turned up.

Learned counsel for the petitioner-bank further points out that even if the entire land is sold then it is not sufficient to clear the outstanding dues of the opposite parties as per the valuation report.

In the said circumstances, it is prayed that permission may be granted to the Bank to sell the entire property including the Cold-storage by modifying the order dated 7.3.2013 passed in C.W.J.C. No.4267 of 2013 to enable the Bank to realize its dues from the opposite party company.

Learned counsel for the opposite parties, on the other hand, submits that the opposite party-company had complied with



the directions given earlier to deposit an amount of Rs.50/- Lacs in two instalments within a short period of time and only upon such deposit the direction had been given to first sell the land in question and thereafter, if any, shortfall remains after sale of the lands then to sell the Cold Storage.

It is also submitted by learned counsel that sufficient efforts have not been made by the petitioner-Bank for selling the property and thus it is not justified on their part to seek permission for sale of the entire properties by modification of the earlier order passed by this Court.

On a consideration of the entire facts and circumstances, it transpires that two and half years have elapsed since the passing of the earlier order dated 7.3.2013 in C.W.J.C. No.4267 of 2013 and particularly upon considering the valuation of the vacant land, which is on the basis of the valuation report of the valuer appointed on the suggestion of both the parties, the same is not sufficient to liquidate the entire outstanding dues of opposite party No.1, the order dated 7.3.2013 is fit to be modified so as to enable the petitioner-Bank to realize its dues by exercising its statutory power under the SARFAESI Act.

Thus, in view of what has been stated above, the order dated 7.3.2015 passed in C.W.J.C. No. 4267 of 2913 is modified

to the extent that it shall be open to the petitioner-Bank to proceed with the auction-sale of the entire property including the Cold Storage and the lands abutting the same.

The modification petition is, accordingly, disposed of.

(Ramesh Kumar Datta, J)

V.P.Sinha/-

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