

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.08.2015

CORAM

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HON'BLE MR.JUSTICE K.K.SASIDHARAN

W.P. No.25814 of 2014

Ashok Kumar

Petitioner

..
Vs.

The Authorised Officer,
Indian Bank,
Anna Nagar Branch,
No.W 100, Second Avenue,
Anna Nagar,
Chennai-600 040.

..
Respondent

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the respondent bank to return the sum of Rs.30,05,000/- together with interest from 24.12.2010.

For petitioner : Mr.P.Ramesh Kumar

For Respondent : Mr.M.L.Sripathi

ORDER

(Order of the Court was made by SATISH K. AGNIHOTRI, J.)

The indisputable facts relevant for adjudication of the dispute is that the petitioner in response to the tender-cum-sale auction of the property bearing plot No.142, Saraswathi Nagar Main Road, Thirumullaivoyal, Chennai, participated in the auction held on 28th September, 2010. The reserve price fixed for the property was Rs.30 lakhs. The petitioner had deposited Rs.3 lakhs as EMD. The petitioner was held as successful bidder and pursuant thereto, he deposited the balance amount of Rs.27,05,000/- and the petitioner was also informed vide communication dated 24th December, 2010.

2 Thereafter, the petitioner, in the hope of getting the property, had waited for a long period. Without handing over the possession or sale certificate, the petitioner was informed that several disputes are pending in different courts and Tribunal in

respect of the property. The petitioner, feeling dissatisfied and lost in such a long delay, sent a representation to the bank on 3rd February, 2014 followed by a legal notice on 9th April, 2014, calling upon the bank to repay the amount deposited towards the sale of the property, lying with the bank. Till date, the petitioner is in the stage of uncertainty. Thus, this petition is for a direction to the bank to return the said amount with interest from 24th December, 2010.

3 In response, the Bank has filed its response clearly stating that pursuant to the auction sale, the petitioner had deposited the entire amount. However, several disputes are pending in City Civil Court and Debt Recovery Tribunal in respect of the property and as such, no further steps for issuance of sale certificate and handing over possession of the property in question would be taken. The amount has been paid towards the sale consideration of the property and as such, the petitioner is not entitled to the claim for refund of the same.

4 Be that as it may, it is not in dispute that the petitioner, being the successful bidder, deposited the requisite amount within the prescribed time. For the disputes pending in different forums, the petitioner cannot be held liable and he may also not be taken as proper and relevant party on account of having participated in the auction proceedings and depositing the money. The petitioner is entitled to the said amount, which is lying with the bank. The petitioner has been deprived fruits of the said amount as the same is lying idle with the bank and as such he is entitled to interest thereon.

5 We, accordingly, direct the respondent bank to return back the said amount of Rs.30,05,000/- (Rupees thirty lakhs five thousand only) to the petitioner with interest at the rate of 9% per annum payable from 24th December, 2010 upto date within a period of two weeks from today.

6 Resultantly, the writ petition is allowed. No costs.

Sd/-

Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

vvk

To

The Authorised Officer,
Indian Bank,
Anna Nagar Branch,
No.W 100, Second Avenue,
Anna Nagar,
Chennai-600 040.

+1 cc to M/s.M.L.Sripathi, Advocate, sr.46315
+1 cc to Mr.P.Ramesh Kumar, Advocate, sr.46433

W.P. No.25814 of 2014

rsi(co)
kra(7/9)



WEB COPY