

HON'BLE SRI JUSTICE R.SUBHASH REDDY
AND
HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

WRIT PETITION No.26796 of 2015

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ORDER : (per Hon'ble Sri Justice R.Subhash Reddy)

The petitioner has filed this writ petition challenging the e-Auction Notice dated 23.07.2015 issued by the 2nd respondent-Recovery Officer, Debts Recovery Tribunal, Hyderabad, in exercise of powers under the provisions of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993.

2. Originally, one Smt. Sayeeda Sultana was the owner of the house property constructed in an extent of 813.5 square yards in Sy.Nos.1027 and 1068, situated at Musallampura, Mankamma Thota, Karimnagar Town. After her death, the said property was succeeded by the proposed respondent Nos.3 to 9 herein, being the legal heirs. It is the case of the petitioner that he has purchased the said property from the said legal heirs through a registered Sale Deed bearing Document No.15474/2006, dated 25.11.2006, registered in the office of the Joint Sub-Registrar, Karimnagar. M/s. Shivani Marketing Chem Private Limited has borrowed certain amount from the State Bank of India, Hyderabad, for which the aforesaid property was given as security by Smt. Sayeeda Sultana. When there is a default in repayment of the loan amount, the 1st respondent-Bank has filed O.A.No.78 of 2005 on the file of the Debts Recovery

Tribunal, Hyderabad, for recovery of the outstanding amount due against the original borrower – M/s. Shivani Marketing Chem Private Limited, wherein some of the successors of the subject property were also figured as respondent Nos.4 to 8. During the process of recovery, the Recovery Officer of Debts Recovery Tribunal, Hyderabad, has issued e-Auction Sale Notice dated 23.07.2015, vide R.P.No.126/2014 in O.A.No.78 of 2005, proposing to sell the subject property, which is claimed by the petitioner, by way of auction for recovery of a sum of Rs.48,84,175.11 ps. Aggrieved by the said e-Auction sale notice, the petitioner has filed the present writ petition.

3. While issuing notice before admission, as it was represented that the petitioner is prepared to deposit 50% of the amount due by 27.08.2015 for grant of interim order, this Court, by order dated 24.08.2015, granted interim stay of all further proceedings pursuant to the e-Auction Sale Notice dated 23.07.2015.

4. Sri S.A.K. Mynoddin, learned counsel for the petitioner submits that the petitioner is prepared to pay the entire balance amount due and requested to set aside the impugned Sale Notice dated 23.07.2015.

5. Sri Sharad Sanghi, learned counsel appearing for the proposed respondent Nos.3 to 9, submits that the proposed respondents have already sold the subject property to the petitioner and they would not claim any title or interest over the subject property. He would further submit that the proposed respondent Nos.3 to 9 have no objection to hand over the title deeds, which are with the 1st respondent-Bank, if the petitioner pays the entire loan amount due as on today.

6. Learned counsel for the petitioner submits that pursuant to the interim order dated 24.08.2015, the petitioner has deposited a sum of Rs.24,50,000/- and a further sum of Rs.28,58,073/- is due as on 25.08.2015 along with subsequent interest and other incidental charges.

7. In view of the statements made by the learned counsel for parties, we deem it appropriate to dispose of the writ petition permitting the petitioner to pay the entire balance amount due within a period of six weeks from today. If the petitioner pays the loan amount, the 1st respondent-Bank shall receive the said amount and appropriate the same towards the loan account of M/s. Shivani Marketing Chem Private Limited. After closing down the loan account of M/s. Shivani Marketing Chem Private Limited, respondent Nos.3 to 9 shall handover the title deeds of the subject property to the petitioner.

8. However, it is made clear that that if the balance amount due is not paid by the petitioner within the stipulated time, as directed by this Court, it is open to the 1st respondent-Bank to adjust the amount already paid by the petitioner to the loan account of M/s. Shivani Marketing Chem Private Limited and take further steps for realization of the balance amount due by issuing fresh auction notice.

9. Subject to the above direction, this writ petition is allowed, setting aside the impugned e-Auction Sale Notice dated 23.07.2015. As a sequel, miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

JUSTICE R. SUBHASH REDDY

JUSTICE A.SHANKAR NARAYANA

05.11.2015.

Msr

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