

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 1027 OF 2016

SMT.REMEDIANA D'COSTA AND 3 ORS., ... Petitioners
Versus
CANARA BANK, SME BRANCH, THR. ITS
MANAGER., ... Respondent

Shri Pranay A Kamat, Advocate for the petitioners.
Ms. Priyanka Kamat, Advocate for the respondent.

Coram:- F. M. REIS &
NUTAN D. SARDESSAI, JJ.

Date:- 26th October, 2016

P.C.

Heard Shri Pranay A Kamat, learned Advocate appearing for the petitioners and Ms. Priyanka Kamat, learned Advocate appearing for the respondent.

2. Shri P. A. Kamat, learned Advocate for the petitioner essentially pleads that above petition be tried as a mercy petition to protect the petitioners from being dispossessed of his residential house which is likely to be subjected for an public auction on 31.10.2016 for recovery of the debts payable to the respondents. Shri P. A. Kamat, learned Advocate for the petitioner states that he does not dispute the correctness of the amount due to the respondent which is reflected in the auction notice to be sum of Rs.84,31,657.62 with interest. The learned Counsel further points out that he would pay the total amount due on the subject loan to the respondent within 2 months from today

in specific installments. The learned Counsel as such submits that the auction proceedings fixed on 31.10.2016 be deferred and the petitioners be permitted to pay the total amount alongwith costs of auction proceedings within a period of two months.

3. On the other hand, Ms. P. Kamat, learned Counsel appearing for the respondents points out that in case the petitioners desire that the auction be deferred the petitioners should deposit a minimum 25% of the amount on or before 31.10.2016 and the balance amount with accrued interest thereon within two months from today. The learned Counsel further points out that the petitioners are the defaulters, and as such, there is no reason to give any further extension of time to clear the dues of the respondent.

4. Shri P. A. Kamat, learned Counsel in reply to said contention submits that the petitioners are not in financial position to pay such 25% of the amount on or before 31.10.2016 but would pay the some substantial amount before the said date.

5. In peculiar facts and circumstance of the case and considering that the petitioners have offered to clear all the dues of the respondent alongwith costs of auction notice within two months from today, we find it fit to meet ends of justice to defer the action fixed on 31.10.2016 on the following terms:-

- (i) The petitioners shall deposit a sum of Rs.10,00,000/- alongwith costs of auction proceedings on or before 31.10.2016.
- (ii) The petitioners shall deposit further sum of Rs.10,00,000/- on or before 10.11.2016.

(iii) Balance amount due on the subject loan shall be paid by the petitioner alongwith accrued interest within two months from today.

(iv) The petitioners shall file an undertaking to the satisfaction of the Registrar(Judicial) of this Court within two days from today that they shall pay the said amount referred to herein above.

(v) The petition stands disposed off accordingly.

NUTAN D. SARDESSAI, J.

F. M. REIS, J.