

The Hon'ble Sri Justice C.V.Nagarjuna Reddy
and

The Hon'ble Sri Justice G.Shyam Prasad

—
Writ Petition No.27750 of 2016

—
Date: 19.08.2016

Between:

K.Rajesh and another

..Petitioner

and

State Bank of India
rep. by its Chairman and Managing Director
State Bank Bhavan
Mumbai and 2 others

..Respondent

Counsel for the Petitioner: Mr.Ravi Cheemalapati

**Counsel for the respondents : Mr.Chithari
Prabhakar**

The Court made the following:

Order: (Per the Hon'ble Sri Justice C.V.Nagarjuna Reddy)

This Writ Petition is filed for a Mandamus to set aside letter, dated 11-07-2016, of respondent No2. whereunder the petitioners were informed that an E-Auction, of the properties mortgaged by them

to the respondents, would take place on 19.08.2016.

During the hearing of the case, Mr.Ravi Cheemalapati, learned Counsel for the petitioners, and Ms.Lalitha, Assistant General Manager, and Mr.Janakiram, Law Officer of the respondents, are personally present.

The learned Counsel for the petitioners submitted that due to reasons beyond their control, the petitioners could not avail the opportunity of One Time Settlement (OTS) extended to them by the respondents on 20-12-2014 by failing to pay the balance amount after paying a sum of Rs.40 lakhs out of Rs.1.30 Crores. He has further submitted that his clients are prepared to pay the balance amount along with reasonable interest for the defaulted period.

The Assistant General Manager submitted that as the petitioners failed to show their *bona fides* by failing to avail the benefit of OTS, they are no longer entitled to the said benefit and that as of now, the petitioners are due and payable a sum of

Rs.2,40,00,000/-.

On the facts pleaded by the petitioners, this Court felt that the respondents need to show sympathetic consideration towards the petitioners and condone their lapses for not adhering to the OTS schedule in payment of the balance amount. Therefore, the case was passed over to enable the Assistant General Manager and the Law Officer to take instructions from their superiors.

After the case was again taken up for hearing, in all fairness, the Assistant General Manager has stated that having regard to the view expressed by this Court, the respondents are prepared to consider the petitioners' case for fresh OTS and that in consideration thereof, the respondents will write off Rs.1 Crore and in such an event, the petitioners will be liable to pay a sum of Rs.1.43 Crores.

The learned Counsel for the petitioners submitted that as his clients are under severe financial constraints having lost their employment for considerable time in U.S., a little more

concession may be given in fixing the fresh OTS amount.

The Assistant General Manager finally agreed that the petitioners may pay Rs.1.20 Crores as full and final settlement of the respondents' claim in reasonable installments as this Court may fix.

Taking into consideration the totality of the facts and circumstances of the case, the Writ Petition is disposed of in the following terms:

- “(1) The respondents are permitted to go ahead with the auction scheduled for today but the same shall not be confirmed for a period of two months;
- (2) The petitioners shall pay and the respondents shall receive a sum of Rs.1.20 Crores towards full and final settlement of the latter's claim;
- (3) Out of the sum referred to in Clause- 2 supra, the petitioners shall deposit 25% on or before 24-08-2016, another 25% within three weeks thereafter and the balance 50% on or before 19-10-2016;
- (4) In default of any of the above conditions, the fresh OTS offered by the respondents as agreed to by the petitioners shall stand cancelled and the

respondents shall be free to proceed
with further sale proceedings.”

As a sequel to disposal of the Writ Petition,
WPMP.No.34376 of 2016, filed by the petitioners
for interim relief, is disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

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(G.Shyam Prasad, J)

Dt: 19th August, 2016
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