

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
AND
HON'BLE SRI JUSTICE G.SHYAM PRASAD

WRIT PETITION No.37449 of 2015

Date:20.7.2016

Between:

Y.Anji Babi,
S/o Late Y.Yellappa

.....**Petitioner**

And:

The State Bank of India, Retail
Assets Central Processing Centre-III,
Hyderabad, repled by its Assistant
General Manager.

....**Respondent**

Counsel for the petitioner: Mr. V.Venkata Mayur

Counsel for Respondent: Mr. Podila Hari Prasad

The Court made the following:

ORDER: *(per Hon'ble Sri Justice C.V.Nagarjuna Reddy)*

This Writ Petition is filed for a *Mandamus* to declare the action of the respondents in forfeiting Rs.4,64,000/- paid by the petitioner, towards 25% of the auction sum, as illegal and arbitrary.

We have heard Mr. V.Venkata Mayur, learned

counsel for the petitioner and Mr. Podila Hari Prasad, learned Standing Counsel for State Bank of India appearing for the respondent.

In pursuance of the e-auction notice issued by the respondent under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, the petitioner has filed his tender offering a sum of Rs.19,82,000/-. The respondent has accepted the said offer.

It is not in dispute that as per the terms and conditions of the auction, the petitioner was liable to pay 25% of the auction sum forthwith and the balance within 15 days thereafter. However, the petitioner failed to pay the said 25% of the auction sum immediately, and instead, he has paid the said sum over a period of time up to 28.9.2015. The petitioner also failed to pay the balance amount within the stipulated time. In these circumstances, the respondent has forfeited the amount deposited by the petitioner, *i.e.*, 25% of the auction sum.

When this Writ Petition came up before us on 18.7.2016, we have adjourned the case to enable the learned counsel for the petitioner to know the time schedule within which his client will be able to pay the balance sale consideration.

Today, at the hearing, Mr. V.Venkata Mayur, the learned counsel for the petitioner, on instructions, submitted that due to financial difficulties, his client may be given reasonable time for payment of the balance sale consideration.

In strict sense, this Court has no reason to interfere with the action of the respondent as, admittedly, the petitioner failed to adhere to the time

schedule fixed for payment of the auction sum. However, considering the interests of the respondent-Bank also in that, if the auction is cancelled, it is required to hold a fresh auction, in which event, it is doubtful whether it will be able to secure proper offers, we feel that interests of both parties will be balanced if the petitioner is permitted to pay the balance sale consideration within two weeks from today, subject to his paying interest at the rate of 9% per annum for the period from the date of expiry of 15 days from the date of auction till the date of payment. If such payment is not made within the afore-mentioned time, the action of the respondent in forfeiting the amount paid by the petitioner shall stand confirmed without any notice to him. If the petitioner makes such payment, as directed above, the respondent shall complete the further formalities relating to sale of the property.

Subject to the above observations and directions, the Writ Petition is disposed of.

As a sequel to disposal of the Writ Petition, WPMP.No.48187 of 2015 filed by the petitioner for interim relief is disposed of as infructuous.

*JUSTICE C.V.NAGARJUNA
REDDY*

JUSTICE G.SHYAM PRASAD

*20th July 2016
DR*