

Ladda

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION No. 1379 OF 2017.

Amit Suhas KembhaviPetitioner.
Vs
Authorized Officer, Stressed
Asset Recovery Branch & OrsRespondents.

Mr. Narendra V. Sharma for the Petitioner.
Ms. Vinaya Chavan for Respondent Nos. 1 and 2.

CORAM : R.M. BORDE & A.S.GADKARI, JJ.
DATED : 20th February, 2017.

P.C.

1) The petitioner is praying for issuance of directions to the bank to refund the earnest amount deposited by him while participating in the auction proceeding relating to residential premises. The petitioner deposited the earnest amount of Rs.9.90 lakhs (i.e. 10% of the reserved price) while participating in the e-auction. The petitioner was found to be the successful bidder and in view of sub-rule (2) of Rule 9 of the Security Interest (Enforcement) Rules, 2002, it was incumbent upon the petitioner to deposit balance 15% of the bid amount immediately. The petitioner was communicated by

the bank by forwarding Email on 21st October, 2016 requiring him to deposit 15% of the bid amount immediately. The petitioner informed by email to the bank requesting for extension of time since he was out of country. It was informed by the petitioner that he would return to India by 30th October, 2016 and would deposit the amount immediately. The request made by the petitioner was not considered and as such he approached this Court.

2) It is not the matter of dispute that the property which is secured asset, in possession of bank, has not been re-auctioned. The petitioner was not also issued official confirmation to the effect that he was successful bidder during the E-tender process which, according to him, is a reason which needs to be considered. The petitioner has also expressed his willingness to deposit the total bid amount with the bank.

3) The respondent-bank is justified in contending that since the petitioner has failed to deposit the amount as prescribed under the Rules, his request was not liable to be entertained. At the same time, it must be noticed that the secured assets are in possession of the bank and in order to

recover the money the bank needs to conduct re-auction of the secured assets. The ends of justice will be made if the petitioner herein is permitted to participate in the re-auction proceedings. The amount which he has deposited with the bank to the extent of 10% of the reserved price, as bidding amount, shall be considered as a deposit in the event the petitioner opts to participate in the fresh auction which would be conducted by the bank.

4) In view of the liberty as afore-stated in favour of the petitioner, the writ petition stands disposed of. No order as to costs.

(A.S. GADKARI,J)

(R.M. BORDE, J.)