

THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE MS. JUSTICE J.UMA DEVI

WRIT PETITION NO.8371 of 2016

ORDER: (per SK,J)

The prayer of the petitioner in this case reads as under:

'For the reasons stated in the accompanying affidavit that this Hon'ble Court may be pleased to issue appropriate writ or order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in withholding amount of the petitioner to a tune of Rs.1,50,10,000/- deposited towards sale price of the schedule property auction by the respondents on 18-11-2014 in spite of direction for refund of the said amount by the Hon'ble Debt Recovery Tribunal in S.A.No. 282 of 2014 dt:02-02-2016, as illegal, arbitrary and consequently direct the respondents to refund the amount together with interest at 18% P.A. upto the date of payment in the interest of justice and to pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.'

By interim order dated 25.04.2016, this Court directed the Syndicate Bank, the respondent herein, to refund Rs.1,50,10,000/- being the sale consideration paid by the petitioner, the auction purchaser. This Court however directed that the petitioner should re-deposit the said amount as and when directed.

We are now informed by Sri Gopala Krishna, learned counsel representing Sri A.Krishnam Raju, learned counsel for the Syndicate Bank, that aggrieved by the order dated 02.02.2016 passed by the Debts Recovery Tribunal, Visakhapatnam, in S.A.No.282 of 2014 invalidating the auction sale held by the bank, Appeal No.18 of 2016 was preferred by the bank before the Debts Recovery Appellate Tribunal, Kolkata, and the said appeal is still pending consideration. The next date of hearing is 31.01.2018. Learned counsel would further inform us that the petitioner herein, being the auction purchaser in the said invalidated sale, is a party to the appeal.

In the light of the aforestated facts, as the petitioner has already secured refund of the principal sale consideration amount, his claim for interest thereon would necessarily be subject to the result of the pending appeal before the Debts Recovery Appellate Tribunal at Kolkata. In that view of the matter, we are of the opinion that it would be appropriate that the petitioner be relegated to seek such relief before the Appellate Tribunal, if and in the event the invalidation of the auction sale in his favour is confirmed in the pending appeal. Needless to state, in the event the Appellate Tribunal sets aside the order passed by the Debts Recovery Tribunal, Visakhapatnam, in S.A.No.282 of 2014, in the light of the conditional interim order passed by this Court on 25.04.2016, the petitioner would have to redeposit the principal amount refunded to him. This aspect of the matter would be within the discretion of the Appellate Tribunal depending upon the result in the appeal. It is further made clear that this Court has not ventured any opinion on the merits of the case and it is for the Appellate Tribunal to adjudicate the pending appeal on its own merits and in accordance with law.

The writ petition is accordingly disposed of.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR,J

J.UMA DEVI,J

Date:19.12.2017

GJ