

**HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
HON'BLE SRI JUSTICE Dr. SHAMEEM AKTHER**

WRIT PETITION NO. 5400 OF 2017

ORDER: (per Hon'ble the Acting Chief Justice Ramesh Ranganathan)

An affidavit of undertaking is filed by the petitioner dated 09.03.2017 which, to the extent relevant, reads thus:

"I humbly submit that I would be able to procure a purchaser for my house, which is the subject matter of the present writ petition, for a price which shall be not less than Rs.9 Crores, within 30 days and also complete the sale transaction within the said 30 days period, failing which I will not object, in any manner, to the sale of the said house by the respondent No.2 bank and would also cooperate with the respondent NO.2 in the said sale.

I humbly submit that, to prove my bonafides, I am willing to deposit a sum of Rs.25 lakhs within a period of 15 days from today and the said amount can be adjusted against the sale consideration that would be obtained from the purchaser. In the event I am unable to sell the property, the said 25 lakhs paid by me may be adjusted against the loan granted by the 2nd respondent to me and M/s. Tempus Infra Projects Private Limited. I further undertake to vacate the premises which is subject matter of the writ petition on or before 30 days if I am unable to procure a buyer, subject to the 2nd respondent bank agreeing to postpone the auction dated 16.03.2017 by 4 weeks and not dispossessing the petitioner from the aforesaid property for a period of 30 days.

I humbly submit that I would ensure that there would be no damage to the property, in any manner and will not do anything which would lead to any diminution of the house property."

Smt. V. Dyumani, Learned Standing Counsel for the respondent, would submit that the respondents are willing to postpone the date of auction by four weeks in case the petitioner deposits Rs.25,00,000/- within fifteen days, and abides by his undertaking to vacate the property within thirty days from today. She would, however, contend that, since the loan granted to the borrower is in excess of Rupees 60 crores, the bank would ensure that it gets the best possible price for the subject building by putting it to auction even in case the petitioner produce a willing buyer for a price not below Rs.9.00 crores.

Sri R. Raghunandan, Learned Senior Counsel appearing on behalf of the petitioner, would fairly state that the petitioner has no objection to such a course of action being taken by the respondents, as it is in the interest of the petitioner also to ensure that the best possible price is received on the sale of the subject building.

In the light of the undertaking furnished by the petitioner, and in the light of the submission of the Learned Senior Counsel and the Learned Standing Counsel, we consider it appropriate to dispose of the Writ Petition directing the respondents to postpone the date of auction by a further period of four weeks from 16.03.2017. The proceedings under Section 14 of the Act shall be kept in abeyance for a period of thirty days from today. The petitioner shall deposit Rs.25,00,000/- with the respondents within fifteen days from today. In case the petitioner identifies a buyer for the subject property, he shall intimate the particulars of the buyer, and the price at which he is willing to buy the property, to the respondents. The respondent, in the auction to be held after thirty days, shall not sell the property to any person who quotes a price lower than the price offered by the buyer to be produced by the petitioner. In case the petitioner is not able to produce a willing buyer within thirty days, he shall voluntarily and peacefully handover possession of the subject building, in terms of the aforesaid undertaking, immediately after thirty days from today.

The Writ Petition stands disposed of accordingly. The miscellaneous petitions pending, if any, shall stand closed. No costs.

RAMESH RANGANATHAN, ACJ

Dr. SHAMEEM AKTHER, J

Date: 13.03.2017.

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