

HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO**W.P.No.20260 of 2016****ORDER**

This writ petition is filed seeking to declare the action of the respondents in not releasing the equipment as arbitrary and illegal and consequently, to direct the respondent-bank to refund an amount of Rs.26,00,000/- deposited towards auction, to the petitioner.

Heard learned counsel appearing for the petitioner and learned Standing Counsel appearing for the respondent-Bank.

It is the case of the petitioner that the respondent-bank published a notification on 4.9.2015 for sale of plant and machinery of CSL Organics, Plot No.121/122B, Phase II, Industrial Park, Pasha Mylaram Village, Patancheru, Medak District, under the provisions of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. The petitioner-company participated in e-auction conducted by the respondent-bank on 9.10.2015 and became the successful bidder and it was asked to deposit 75% of the bid amount within 15 days from 2.11.2015. The respondent-bank sent a reminder on 5.11.2015 to deposit the amount. However, the petitioner made a request for extending time to deposit the amount up to 25.11.2015 and necessary permission was also accorded. On 24.11.2015, the petitioner deposited the amount. The respondent-bank though

informed the petitioner to take delivery of the machinery, later, advised the petitioner to withhold delivery of the machinery for the reasons best known to them. In those circumstances, the petitioner approached the respondent-bank on 23.12.2015 to send the officials for handing over the machinery, which was followed by requests made on 12th & 13th January, 2016. The respondent-bank issued a letter on 13.1.2016 authorizing the petitioner to lift the equipment, but it did not fix any date for the said purpose. Ultimately, the bank informed the petitioner on 18.3.2016 that due to some legal problems, they are unable to handover the movable assets in time. The petitioner sent a legal notice on 16.3.2016 for handing over the machinery and when there is no response, the present writ petition was filed seeking a direction to release the equipment or refund the amount of Rs.26,00,000/- deposited with the respondents.

The 1st respondent filed a counter-affidavit stating that the petitioner is the successful bidder for a sum of Rs.26,00,000/- in the auction held on 9.10.2015. Though the petitioner was supposed to deposit the balance 75% of the bid amount within 15 days, it failed to do so, and hence, requested the bank to extend time to deposit the balance amount, due to which, the landlord demanded the bank to pay rent for the period the machinery remained in the premises, thereby, unnecessary dispute has cropped up between the landlord, the Bank and the petitioner. The officials of the bank had

discussions with the owner of the building and after negotiations, finally, the bank was able to resolve the issue and got clearance from the owner of the premises. In the meanwhile, the petitioner is threatening the bank for cancellation of the auction and refund of the amount. The bank has clarified the position to the petitioner *vide* letter dated 26.6.2016 stating that since the issue has been resolved with the owner of the premises, the petitioner has to lift the machinery, but for the reasons best known, it had changed its mind and demanded for refund of the amount. Even now, the bank has no objection for lifting the machinery.

From the above facts, it is clear that the dispute relates to handing over machinery to the successful bidder, pursuant to the e-auction held on 9.10.2015. As the petitioner failed to deposit the amount within the time stipulated, it requested the respondent-bank to extend further time and accordingly, the same was granted. Due to the delay, the landlord demanded the respondent-Bank to pay rent, and hence, the delay has occurred for delivery of the machinery.

Learned standing counsel appearing for the respondent-Bank submits that machinery is available and it is ready to deliver to the petitioner, who is the successful bidder.

In the circumstances, the petitioner shall visit the spot where the machinery is located on 27.02.2017 and the respondent-Bank

shall send its officials for handing over the machinery to the petitioner. If the Bank is unable to deliver the machinery for any reason, not attributable to the petitioner, it shall pay/refund the amount of Rs.26,00,000/- by 28.02.2017.

Accordingly, the Writ Petition is allowed. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE A.RAMALINGESWARA RAO

7th February, 2017
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