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

WRIT PETITION NO.11005 OF 2016

ORDER

(*Per Hon'ble Sri Justice Sanjay Kumar)*

Challenge in this writ petition is to the order 03.03.2016 passed by the Debts Recovery Tribunal, Visakhapatnam in S.A.No.53 of 2015. A consequential direction is sought to set aside the said order and hold the sale notice dated 29.01.2015 issued by the Syndicate Bank and the auction held pursuant thereto on 04.03.2015 in respect of item 1 of the secured assets as null and void.

By order dated 06.04.2016, this Court directed the Syndicate Bank not to register the sale certificate in favour of the highest bidder if the petitioners deposit the amount fetched by way of the sale together with the incidental expenses incurred by the bank on or before 09.05.2016.

It is an admitted fact that this condition was not complied with. That apart, it appears that even by the date of passing of the aforestated order, the sale certificate was not only issued to the auction purchaser but was also registered. It is brought to our notice that the sale certificate was issued on 30.03.2016 and was thereafter registered on 04.04.2016.

Perusal of the order under challenge reflects that the only ground worthy of consideration raised by the petitioners before the Tribunal was that the reserve price of the property in question, fixed at Rs.62.00 lakh, was on the lesser side when compared to the market value of the said item of the property. The contention of the petitioners was that in the previous sale notice dated 04.02.2013, the reserve price fixed for this item of property was Rs.1.00 crore and therefore, the reduction in the reserve price was not justified. However, the record produced by the bank before the Tribunal and more particularly the valuation report dated 10.01.2015 indicated that the property was valued at Rs.77.00 lakh and the forced sale value was fixed at Rs.62.00 lakh. The bank accordingly fixed the reserve price at the said forced sale value. However, the property fetched much more than the reserve price as the auction purchaser bid Rs.84.70 lakh for the said item of property and was declared the successful bidder. All these facts were considered by the

Tribunal and finding that the petitioner had raised no other point or objection, the Tribunal dismissed the securitization application.

We therefore find no grounds to interfere with the order under challenge and more so as the petitioners failed to show their *bonafides* by complying with the order dated 06.04.2016. That apart, the completed sale transaction in favour of the auction purchaser does not warrant interference at this late stage.

The writ petition is devoid of merit and is accordingly dismissed. We are informed that the movables belonging to the petitioners that were left in the premises of the secured asset were thereafter shifted to a rented premises and the bank is incurring rental charges for safeguarding the same. As it is the responsibility of the petitioners to take back their movable properties, which were not under the charge or lien of the bank, we permit the petitioners to collect and remove their movable properties from the custody of the bank within one week from the date of receipt of a copy of this order. In the event they fail to do so, it shall be open to the bank to auction the said movable properties and adjust the proceeds thereof towards the rentals paid by it for their safe custody. It shall also be open to the respondent bank to initiate independent measures in accordance with law for recovery of the rental amount paid by it in this regard from the petitioners.

Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

SANJAY KUMAR, J

J. UMA DEVI, J

8th NOVEMBER, 2017

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