

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

WRIT PETITION NO.32409 of 2017

ORDER: (per SK,J)

This writ petition was filed with the following prayer:

'For the reasons stated in the accompanying affidavit, it is therefore prayed that this Hon'ble Court may be pleased to grant appropriate relief more in the nature of Writ of Mandamus under Article 226 of the Constitution of India declaring the action of the 1st Respondent in conducting e-auction with regard to properties of the Petitioner by issuing notification/advertisement in Indian Express Newspaper dt. 07.09.2017 and without considering the proposal and request made by the Petitioner thorough financial agency for onetime settlement and also not providing various safeguards which are entitled by the Petitioner under Micro, Small and Medium Enterprises Development Act, 2006 as arbitrary, illegal, malafide, discriminatory and unconstitutional violating Articles 14, 19(1)(g) and 21 of the Constitution of India and contrary to the Micro, Small and Medium Enterprises Development Act, 2006 and issue consequential directions restraining the 1st Respondent from disposing of the Petitioner's property ie., property consisting of two bed room residential flat admeasuring 56.5 sq.yards bearing sale deed No. 4931/2010, dt. 30.12.2010 situated at Flat No. 4, AM Grand apartment, Near JKC College Road, Guntur standing in the name of P.K.N.V.Sai Chakravarthy and residential building consisting of ground floor and 1st floor admeasuring 302.22 sq.yards bearing sale document No. 475/2008, dt. 28.01.2008 situated at D.No. 213/C, Near D.No. 8-11-103 at 6th & 7th lanes between Nehru Nagar, Guntur District standing in the name of Sri Potti M.S.V.Subba Rao (father of the proprietary) and Smt. Sudha Rani (mother of proprietor) by way of e-auction in pursuance of the notification issued in Indian Express Newspaper dt. 07.09.2017 and further direct the 1st and 2nd Respondents to consider the request and proposal of the Petitioner made through financial agency for onetime settlement and allow the Petitioner to do his business activity and further direct the 3rd and 4th Respondents to implement the provisions of the Micro, Small and Medium Enterprises Development Act, 2006 strictly in safeguarding the interest of the Petitioner company as per the provisions of the Micro, Small and Medium Enterprises Development Act, 2006 and pass such other order or orders as this Hon'ble Court deems fit and proper in the circumstances of the case.'

Sri Dishit Bhattacharjee, learned counsel appearing for the respondent Canara Bank, would inform this Court that the auction proposed to be held on 22.09.2017 pursuant to the impugned notice/advertisement dated 07.09.2017 did not materialise for want of bidders.

Though Sri P.V.Krishnaiah, learned counsel for the petitioner, would contend that the matter still requires examination on the ground that he has raised issues with regard to the one time settlement proposal made by his client apart from the action of the bank being contrary to the safeguards which are to be provided under the Micro, Small and Medium Enterprises Development Act, 2006 (for short 'the Act of 2006'), we are of the opinion that as the challenge primarily was against the action of the bank in conducting the e-auction under the notification/advertisement dated 07.09.2017 and in the context of the said challenge, reference was made to the one time settlement proposal made by the petitioner and also the safeguards allegedly provided under the Act of 2006, the issues in relation to the later two aspects would not survive for independent consideration once the primary challenge against the notification/advertisement dated 07.09.2017 comes to naught owing to the proposed sale dated 22.09.2017 failing for want of bidders.

The writ petition is accordingly dismissed on this short ground leaving all issues open.

Pending miscellaneous petitions, if any, shall also stand dismissed.

No order as to costs.

SANJAY KUMAR,J

J.UMA DEVI,J

Date:23.11.2017

GJ