

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

WRIT PETITION No.19865 of 2017

ORDER: (per Hon'ble Sri Justice Sanjay Kumar)

The prayer of the petitioner, the auction purchaser, reads as under:

“For the reasons stated in the accompanying affidavit, it is hereby prayed that this Hon'ble Court may be pleased to issue a writ order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the 1st respondent in not issuing sale letter or registered the property in favour of the petitioner pursuant to open tender dated 3.2.2006 for Item No.3 of the schedule house in T.S.No.90/2, Assessment No.2521, Door No.8-1-148 situated at Amadalavalasa, Srikakulam District, where the petitioner was highest bidder and paid entire amount as per 1st respondent norms, as arbitrary, illegal, unconstitutional and consequently direct the 1st respondent to issue sale certificate in favour of the petitioner pursuant to the open tender dated 3.2.2006 for Item No.3 of the schedule house in T.S.No.90/2, Assessment No.2521, Door No.8-1-148 situated at Amadalavalasa, Srikakulam District, and to pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.”

Smt.V.Dyumani, learned counsel for the Andhra Bank, would inform this Court that against the auction sale which was knocked down in favour of the petitioner, the borrower approached the jurisdictional Debts Recovery Tribunal by way of S.A.No.88 of 2009 and pending its disposal, there was an interim order of stay interdicting the bank from proceeding further in the matter. She would further state that the Tribunal thereafter dismissed the S.A. on 20.02.2014 and aggrieved thereby, the borrower approached the Debts Recovery Appellate Tribunal at Kolkata *vide* Appeal

No.82 of 2014/422. Learned counsel would further state that pending the appeal, there was again an interim order restraining the bank from taking further steps in relation to the sale. Finally, by order dated 11.08.2017, the Appellate Tribunal allowed the appeal setting aside the order dated 20.02.2014 passed by the jurisdictional Debts Recovery Tribunal in S.A.No.88 of 2009 and remitting the matter for consideration afresh.

In the light of the aforestated facts, it is clear that the case is now pending consideration before the jurisdictional Debts Recovery Tribunal. As the bank was restrained from taking further action in relation to the sale held in favour of the petitioner during the pendency of the subject S.A., such interim order would now stand restored upon the matter being remitted to the Tribunal for consideration afresh.

In these circumstances, this Court does not find any illegality on the part of the bank in not taking further action in relation to the sale wherein the petitioner emerged as the highest bidder. It is for the petitioner to work out his remedies in accordance with law before the proper forum.

Leaving it open to the petitioner to do so, the writ petition is closed.

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

SANJAY KUMAR,J

J.UMA DEVI,J

Date:22.11.2017
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