

\$~14

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 1345/2017

KARTIK ANAND

..... Petitioner

Through Mr.Rajinder Wali with
Mr. A.Chauhan, Advocates

versus

IDBI & ORS

..... Respondents

Through Mr. Sanjay Bhatt and Mr. Naveen
Kumar, Advs. for respondent No.1
Mr. Aditya Malhotra, Adv. for
respondents No.2 to 7

CORAM:

HON'BLE MS. JUSTICE INDIRA BANERJEE

HON'BLE MR. JUSTICE ANIL KUMAR CHAWLA

ORDER

% **17.02.2017**

CM No. 6134/2017 (Exemption)

Exemption allowed, subject to all just exceptions.

Application stands disposed of.

WP(C) No. 1345/2017 & CM No. 6133/2017 (stay)

This writ petition is directed against an order dated 9.2.2017 passed by the Debt Recovery Appellate Tribunal, Delhi dismissing the appeal being Misc. Appeal No. 43/2017 filed by the petitioner

against an order dated 19.1.2017 passed by Debt Recovery Tribunal-I, Delhi in a Special Application being SA No. 105/2016 filed by the Respondent No.3 under Section 17 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act).

It appears that the property being a ground floor shop measuring 672 sq. feet at DLF Industrial Area, Najafgarh Road, New Delhi hereinafter referred to as the secured property was put up for auction by the Respondent No.1, to recover its outstanding dues from the Respondent Nos.2 to 7, being its borrowers. The reserved price for the auction sale was Rs. 47 lacs.

The Respondent No.8 participated in the auction and offered Rs.48 lacs for the secured property. The offer of the Respondent No.8 was accepted, and the secured property was sold to the Respondent No.8, according to the petitioner in hot haste, without considering the petitioner's offer of a higher value for the secured property.

The Respondent No.3 filed an application being IA No. 1183/2016 before the Debt Recovery Tribunal introducing the W.P.(C) 1345/2017

petitioner as a prospective buyer. The petitioner offered Rs. 55 lacs which was about Rs.7 lacs higher than the price offered by the Respondent No.8.

The application was, however, dismissed by the learned Debt Recovery Tribunal, after which the petitioner appealed to the Debt Recovery Appellate Tribunal.

It is pleaded that in course of hearing of the appeal the petitioner offered Rs.60 lacs for the secured property and also offered to compensate the Respondent No.3. By an order dated 03.02.2017, the learned Debts Recovery Appellate Tribunal directed the petitioner to deposit Rs.75 lacs with the Registrar of the Appellate Tribunal , within four days to show his bonafides and further directed that the matter be listed on 09.02.2017 for report of compliance with the direction for deposit. Learned Counsel appearing on behalf of the petitioner submits that the prayer of the petitioner for accommodation of three more days to make the deposit of Rs.75 lacs was turned down.

By the order dated 09.02.2017, impugned appeal has been

dismissed, for the inability of the petitioner to deposit Rs. 75 lacs within four days. May be, as argued by the petitioner a sale agreement had been executed by the Respondent No.8.

There can however be no doubt that when secured property, is sold upon invocation of the provisions of the SARFAESI Act, the secured property must be sold at the best available price.

The petitioner is ready in the Court with a cheque of Rs. 55 lacs. Learned lawyer submits that the cheque may be dishonoured. Any deposit should be by demand draft.

The impugned order of the Debt Recovery Appellate Tribunal is set aside. Subject to deposit of Rs. 55 lacs by Bank Draft and/or Banker's cheque with the respondent bank within 20.2.2017 and a further sum of Rs. 20 lacs also by Bank Draft/Banker's Cheque within 1.3.2017, the appeal shall stand restored. The sum of Rs. 55 lacs + 20 lacs (Rs.75 lacs) shall be kept by the bank in a separate interest bearing Fixed Deposit Account. The deposit shall abide by the result of the appeal before the learned Debt Recovery Appellate Tribunal. In default of payment in terms of this order, this order shall stand vacated, and the appeal shall stand dismissed.

The writ petition and pending application are disposed of.

A copy of this order be given *Dasti* under the signatures of
Court Master.

INDIRA BANERJEE, J

ANIL KUMAR CHAWLA, J

FEBRUARY 17, 2017

mw