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

\+ W.P.(C) 8013/2016

MANJU SUNEJA AND ANR ..... Petitioners

Through Ms. Sriyanka Gangopadhyay, Adv.

versus

CENTRAL BANK OF INDIA ..... Respondent

Through Ms. Anita Saran, Adv for R-1.
Mr. Manoj C. Mishra, Adv for R-2 & R-3.

CORAM:
HON'BLE MS. JUSTICE INDERMEET KAUR

O R D E R

% 25.07.2017

The petitioner is aggrieved by a sale certificate dated 29.06.2016 issued by the respondent bank (Central Bank of India) in favour of respondents No.2 & 3. Submission in this petition is that this sale should be set aside.

Record shows that the petitioner had applied for a room of Rs.85 lacs from respondent No. 1. While sanctioning the loan, respondent No. 1 had demanded a security which was furnished by petitioner No. 1 by mortgaging her residential property bearing Arjun Marg, 46 DLF city, Phase I, Gurgaon Haryana. The EMI against the loan were not paid by the petitioner. Respondent No. 1 Bank put up the property for auction twice. No bidder came forward. The contention of the petitioner is that he had paid a sum of Rs.3 lacs to the respondent Bank and assured them that they would pay the balance amount within time. There is no document to substantiate the submission of the petitioners that any One Time Settlement was accorded in favour of the petitioners or that the petitioners had been granted opportunity to pay the balance amount. The contention of the petitioners is that the representations of the petitioners remained un-heard before respondent No. 1. The property of the petitioners was put to auction by the Bank. The petitioners were constrained to file W.P. (C) No.5730/2016 seeking a stay on the e-auction. The auction had been scheduled for 16.06.2016. The matter was heard by the Bench of this Court on 14.07.2016 whereupon it was informed to the Court that a sale certificate dated 29.06.2016 reflecting sale amount of Rs.1.82 crores has been received by the Bank and the Bank has sold this property in the auction to respondents No. 2 & 3.

All these facts are undisputed. The petitioners are aggrieved. Submission is that this sale certificate being invalid and the petitioners being ready and willing to pay the loan back to respondent No. 1, the property of the petitioners should not have been auctioned.

Counter affidavit has been filed by respondent No. 1 as also by respondents No. 2 & 3. The stand of respondent No. 1 is that the petitioner had defaulted in payment and it was a fit case for the sale of the property. Proceedings under the SARFAESI, Act had been taken and only after the culmination of those proceedings, that the property has been auctioned. No case is made out in favour of the petitioners.

Respondents No. 2 & 3 are the successful bidders in the auction of this property which had taken place on 16.06.2016. Respondents No. 2 & 3 had paid the sum of Rs.1.82 crores to the Bank which had washed off the loan of respondent No. 1 Bank and the excess amount of Rs.56 lacs had been credited to the account of the petitioners. This Court has been informed today that this excess amount of Rs.56 lacs which had been credited to the account of the petitioners has been withdrawn by the petitioners on 27.02.2017. This fact is not in dispute. Learned counsel for the respondents rightly points out that the petitioners had accepted the terms of this auction itself by withdrawing this amount of Rs.56 lacs which had been credited to their account and it now does not lie in the mouth of the petitioners to urge to the contrary. This submission is endorsed.

This petition is without any merit. Dismissed.

INDERMEET KAUR, J

JULY 25, 2017
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