

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 4224 OF 2018

M/s. Gemini Aluminium Trading Co. P Ltd. & Anr. ... Petitioners

V/s.

State Bank of India (SARB) & Ors. ... Respondents

Mr. Sidharth Samantaray a/w Mr. Vivek Phadke i/b Mr. Akash S. Acharya for the Petitioners.

Ms. Kainaz Irani i/b Ravi Goenka for the Respondents.

Mr. Shashank Fadia i/b Ishwari Bagaria for the Auction Purchaser.

**CORAM : A.A. SAYED AND
RAVINDRA V. GHUGE, JJ.**

DATE : 12th APRIL, 2018.

PC. :

1 Leave to amend the Petition to add the Auction Purchaser as party Respondent. Amendment to be carried out forthwith.

2 The Petitioners have been filed this Petition seeking the following prayers :-

(a) that this Hon'ble Court be pleased to issue a writ of Mandamus or any other writ or order of this Hon'ble court calling for the records pertaining to the loan account of the Petitioner from the Respondent and after examining the legality and propriety thereof, be pleased to quash and set aside the e-auction dated 27th March, 2018 in respect of Flat No.106, in Subh Sandesh, Hansraj Lane, Byculla, Mumbai 400 010;

(b) that this Hon'ble court be pleased to direct the Respondent to consider the offer of the Petitioner in respect of Flat No.106, in Subh Sandesh, Hansraj Lane, Byculla, Mumbai by cancelling the said auction dated 27th March, 2018;

3 The subject matter of the Petition is flat No.106, Subh Sandesh, Hansraj Lane, Byculla, Mumbai. The auction sale of the said flat was conducted on 27.03.2018. The purchase price was knocked down in favour of the Auction Purchaser for a sum of Rs.1.53 crores. In the Petition, it is averred that the Petitioners has a purchaser who is ready to purchase the said flat for more than Rs.1.55 crores. In Court, the learned Counsel for the Petitioners on instructions stated that the said purchaser is willing to pay a sum of Rs.1.65 crores and that he has a demand draft of Rs.1.65 crores ready. The learned Counsel submitted that the said flat is sold at a lesser price than the market value.

4 The learned Counsel for the Respondent Bank opposed the Petition and submitted that the auction was conducted in accordance with law and as per the procedure prescribed and the Auction Purchaser has now paid even the balance amount by RTGS. She submitted that the outstanding dues of the Petitioners are more than Rs.10 crores.

5 We have heard the learned Counsel for the parties. The learned Counsel for the Auction Purchaser on instructions, states that the Auction Purchaser is willing to match the purchase price of Rs.1.65 crores. In the circumstances, the offer of the Auction Purchaser would even meet the expectation of the Petitioners and the grievance of the Petitioners would no more survive.

6 In light of the above, we accept the statement of the learned Counsel for the Auction Purchaser (on instructions from the Auction Purchaser who is present in Court) that apart from Rs.1.53 crores which is already paid, the balance amount of Rs.12,00,000/- shall be paid to the Respondent Bank on or before 20.04.2018 by RTGS to make the total purchase price of Rs.1,65,00,000/-.

7 Subject to the above, the Petition is dismissed.

(RAVINDRA V. GHUGE, J.)

(A.A. SAYED, J.)