IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.10.2018

CORAM :

THE HON'BLE MRS.V.K.TAHILRAMANI, CHIEF JUSTICE

AND

The HON'BLE MR.JUSTICE M.DURAISWAMY

W.P. No.17923 of 2018 and
W.M.P.No.21220 of 2018

1.S.Rekha Rani
2.J.B.Surendra Kumar

.. Petitioners

Vs.

1. Debts Recovery Appellate Tribunal
Rep. by its Registrar
4th Floor, Indian Bank Circle Office
No.55, Ethiraj Salai
Chennai - 600 008.

2. The Authorised Officer
M/s. UCO Bank
Asset Management Branch
328, Thambu Chetty Road
Chennai - 600 001

3. M.P.Devaraj

4. T.A.Nagaraj
[R4 impleaded as per order dated
17.7.2018 in W.P.No.17923/2018]

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorarified Mandamus calling for the records from the Debt Recovery Appellate Tribunal, Chennai, in pursuance of the impugned order dated 10.04.2018 made in R.A.(SA) No.49 of 2014 and quash the same and consequently to extend the time for 4 weeks to make the decree amount payable by the petitioners to the 2nd respondent.

For Petitioner :Mr.K.A.Ramakrishnan
For Respondents :R1 - Tribunal
Mr.V.Suthakar - for R2
Not Ready in Notice - R3
Mr. S.Amalaraj S.Penikilapatti - for R4

O R D E R

(Order of the Court made by M.DURAISWAMY,J.)

The petitioner has filed the above writ petition to issue a Writ of Certiorarified Mandamus to call for the records from the Debt Recovery Appellate Tribunal, Chennai, in pursuance of the order dated 10.04.2018 made in R.A.(SA) No.49 of 2014, to quash the same and consequently to extend the time by four weeks to make the decree amount payable by the petitioners to the 2nd respondent

2. Challenging the sale notice, the borrowers have filed S.A.No.608 of 2013 on the file of the Debts Recovery Tribunal, Bangalore.

3. According to the petitioners, the property was sold in the auction held on 12.12.2013 for a sum of Rs.1,06,30,000/- [Rupees one crore six lakhs and thirty thousand only]. The petitioners have challenged the sale on two grounds, viz.,

(i) the upset price fixed for the property was low ; and

(ii) the sale notice was not served on the petitioners.

4. It is pertinent to note that the sale notice and sale proceedings were sent to the petitioners' address, however, the same could not be served on the petitioners and the same was returned with an postal endorsement "left". Thereafter, paper publication was effected in respect of the sale on 10.11.2013.

5. The Debts Recovery Tribunal, set aside the sale and allowed the S.A.No.608 of 2013.

6. Aggrieved over the same, the respondent-bank preferred an appeal in R.A.(SA) No.49 of 2014 and the Appellate Tribunal set aside the order passed by the The Debts Recovery Tribunal and allowed the appeal, however, gave liberty to the petitioners-borrowers to make a deposit of the decree amount along with interest with the respondent-bank within four weeks from the date of receipt of a copy of the order so that the Auction Purchaser may be compensated in terms of the impugned order.

7. The learned counsel appearing for the respondent-bank submitted that thought this order was passed on 10.04.2018, the petitioners have not paid a single pie sofar. Further, the learned counsel submitted that even after the sale of the property in the year 2013, the petitioners have not paid any amount to the bank till this date.

8. The learned counsel appearing for the 4th respondent-auction purchaser submitted that the sale certificate was issued in favour of the 4th respondent on 31.12.2013.

9. Since the sale was conducted only after the paper publication effected in the dailies, the submission made by the learned counsel for the petitioners with regard to the service of notice cannot be accepted. Accordingly, the same is rejected.

10. So far as the valuation of the property is concerned, originally the sale was conducted on 14.05.2013 with the upset price of Rs.1,32,87,000/- [Rupees one crore thirty two thousand lakhs and eighty seven thousand only]. Since there was no bidder on that day, the sale was postponed and the respondent-bank was forced to reduce the upset price to Rs.1,06,30,000/-. The said value was fixed based on the guideline value given by the Sub Registrar. The guideline value for the said property was Rs.1,05,000/- [Rupees one crore and five lakhs only]. Hence, the upset price was fixed at Rs.1,06,30,000/-.

11. When there is justification in reducing the upset price from Rs.1,32,87,000/- to Rs.1,06,30,000/-, the reduction in the upset price cannot be said to be erroneous. The fixation of upset price at Rs.1,06,30,000/- is just and proper.

12. In these circumstances, we do not find any ground to interfere with the order passed by the Debt Recovery Appellate Tribunal. Accordingly, the Writ Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

-s/d-
Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

Rj
To

1. The Registrar
Debts Recovery Appellate Tribunal
4th Floor, Indian Bank Circle Office
No.55, Ethiraj Salai
Chennai - 600 008.

2. The Authorised Officer
M/s. UCO Bank
Asset Management Branch
328, Thambu Chetty Road
Chennai - 600 001

+1 CC to Mr.Amalraj, Advocate sr 75564.
+1 CC to Mr.V.Suthakar, Advocate sr 74938.
+1 CC to Mr.K.A.Ramakrishnan, Advocate sr 74827

W.P. No.17923 of 2018 and
W.M.P.No.21220 of 2018

SSD(CO)
SP(04/12/2018)