* HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE Ms. JUSTICE J.UMA DEVI

+ Writ Petition No.41452 of 2018

% Date: 22-11-2018

Mrs. G.Hamalatha W/o Kishan Rao,
Aged 59 years, Housewife, R/o 11-14-86/10,
Flat No.101, Classic Towers, 'O' City, Kashibugga,
Lakshmipuram, Warangal

... Petitioner

Vs.

$ Andhra Bank, Rep. by its Asst. General Manager,
Hanamkonda Branch, Warangal District

... Respondent

! Counsel for Petitioner: Mr. Kiran Kumar Vadlamudi

Counsel for Respondent: Smt. V.Dyumani,
Standing Counsel

< Gist:

> Head Note:

? Cases referred:
Nil.

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
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Writ Petition No.41452 of 2018

Order: (per V.Ramasubramanian, J.)

The auction purchaser has come up with the above writ petition seeking refund of the amounts so far paid.

2. Heard Mr. Kiran Kumar Vadlamudi, learned counsel for the petitioner and Smt. V.Dyumani, learned Standing Counsel for the respondent/Bank.

3. In an auction conducted on 11-9-2018, under the Securitisation Act, 2002, the petitioner became the highest bidder. She has totally paid a sum of Rs.34,18,750/-.

4. But even before the date of the auction, the guarantor approached the Debts Recovery Tribunal-I, Hyderabad, in S.A.No.16 of 2018. The appeal was accompanied by two miscellaneous applications in I.A.Nos.2460 and 2461 of 2018. In I.A.No.2460 of 2018, the Debts Recovery Tribunal-I, Hyderabad, passed a conditional order of stay on 30-8-2018, the operative portion of which reads as follows:

> "Accordingly the Bank is directed to go ahead with the auction as scheduled on 31-8-2018 in pursuant of sale notice dated 31-7-2018 but the respondent/Bank is hereby directed not to confirm the sale in favour of the highest bidder in the auction subject to the petitioner/applicant depositing Rs.6.00 lakhs to respondent/Bank within three weeks, out of which a sum of Rs.3.00 lakhs to be deposited within a week and balance of Rs.3.00 lakhs within two weeks thereafter. In the event of failure of compliance of the aforesaid condition by the petitioners, the respondent/Bank shall be at liberty to confirm the sale in favour of highest bidder in the auction, in which event the sale shall be subject to the result of the SA. This order stands valid till next date of hearing only."

5. Again unfortunately for the petitioner, the guarantor has complied with the conditional order. Therefore, the stay granted by the Tribunal now continues.

6. Hence, the petitioner made a representation on 11-10-2018 for refund of the money. But since the Bank has not refunded, the petitioner has come up with the above writ petition.

7. Smt. V.Dyumani, learned Standing Counsel for the Bank, submitted that since the confirmation of sale has been made subject to the outcome of the appeal, it is always open to the petitioner to deposit the balance sale consideration and await the outcome.

8. But though the said suggestion may prove fruitful to the Bank, it may not prove fruitful to the petitioner. In the event of the borrower succeeding before the Tribunal, the petitioner will be left in the lurch. Therefore, if a person wants to wriggle out on account of circumstances for which he was not responsible, he cannot be prevented from doing so.

9. Therefore, the writ petition is allowed, directing the respondent/Bank to refund the amounts paid by the petitioner so far, within a period of two weeks from the date of receipt of a copy of this order. Pending applications, if any, shall stand closed. No costs.

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V.RAMASUBRAMANIAN, J.

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J.UMA DEVI, J.

22nd November, 2018.
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HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE Ms. JUSTICE J.UMA DEVI

Writ Petition No.41452 of 2018
(per VRS, J.)

HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH
सत्यमेव जयते

22nd November, 2018.
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