THE HON'BLE SRI JUSTICE RAGHVENDRA SINGH CHAUHAN
AND
THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

Writ Appeal No.1582 of 2018

JUDGMENT: (per Hon'ble Sri Justice Raghvendra Singh Chauhan)

This Appeal has been filed against the order, dated 20.11.2018, passed by the Learned Single Judge in I.A.No.1 of 2018 in W.P.No.40462 of 2018, whereby the Learned Single Judge has stayed further proceedings pursuant to the auction notification dated 01.11.2018, however subject to the condition that the appellants shall pay a sum of Rs.50,00,000/- within a period of one week to the Lakshmi Vilas Bank Limited, the respondent Bank, and pay a sum of Rs.75,00,000/- by the end of December, 2018. Since the appellants are aggrieved by the interim order, and especially by the conditions imposed therein, they have filed the present Appeal before this Court.

Mr. J.Prabhakar, the learned Counsel for the appellants, pleads that the respondent Bank seized the stock which belongs to the appellants, as the stocks were pledged with the respondent Bank for the loan taken by the appellants. Since, it would be difficult for the appellants to fulfill the conditions imposed by the Learned Single Judge, by order dated 20.11.2018, the Learned Counsel for the appellants has proposed that the respondent Bank should be directed to release the stock proportionate to the amount paid to the respondent Bank by the appellants. According to the proposal, the appellants are willing to lift the entire stock by the end of January, 2019, in lots, each lot weighing 10 tonnes; the appellants are willing to lift the first lot of 20 tonnes within a period of 15 days upon payment at the rate of Rs.90/- per K.G. to the respondent Bank. Subsequently, the rest of the stock would be lifted at the rate of 10 tonnes per lot, after making payment at the rate of Rs.90/- per K.G. According to the Learned Counsel, if the stock were to be released in favour of the appellants, they will be able to sell off the stock in the open market, to recover the money, and would be in a position to repay the loan amount to the respondent Bank. The proposal has been filed by way of affidavit. The same shall be taken on record.

However, on the other hand, Sri B.S. Prasad, the Learned Senior Counsel appearing on behalf of the respondent Bank, submits that the present outstanding liability of the appellants is Rs.2,78,83,290/-. Moreover, the appellants have already taken a loan upon their house. The outstanding liability for the said loan is Rs.1,25,00,000/-. Therefore, in case the respondent Bank were directed to release the entire stock, the respondent Bank may not be in a position to recover the entire amount due from the appellants.

In rejoinder, Mr.J. Prabhakar, Learned Counsel for the appellants, submits that the current value of the appellants house is Rs.1,75,00,000/-, therefore, Rs.50,00,000/- would still be available to be paid to the respondent Bank. The value of the stock presently is Rs.2,00,00,000/-. Therefore, the respondent Bank can easily realize Rs.2,50,00,000/- from the appellants. For the remaining amount of Rs.28,00,000/-, the appellants are willing to furnish third party security with the respondent Bank within a period of four weeks from today. To this effect, the appellants have filed an affidavit, which shall be taken on record.

Considering the undertakings given by the appellants, this Court directs the respondent Bank to release 20 tonnes of the stock within a period of 15 days from today, provided that the appellants pay to the respondent Bank at the rate of Rs.90/- per K.G for the said stock of 20 tonnes. The respondent Bank is further directed to release the quantity of the stock commensurate with the amount paid by the appellants at the rate of Rs.90/- per K.G. Furthermore, the appellants are directed to give a third party security in favour of the respondent Bank within a period of four weeks from today for a sum of Rs.28,00,000/-. In case there is any default committed by the appellants, the respondent Bank shall be free to retain the remaining stock with it, and to proceed against the appellants in accordance with law.

Subject to the aforementioned observations, this Writ Appeal is disposed of. The Miscellaneous Petitions, if any pending, shall also stand disposed of. No costs.

RAGHVENDRA SINGH CHAUHAN, J.

M.SATYANARAYANA MURTHY, J.

Date:28.11. 2018.
Note:
Issue C.C. by 29.11.2018.
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