

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 160 OF 2019

EMGEE PROPERTIES, THR. ITS
PARTNER, MUDHIT GUPTA, THR. POA
CAETANO RONY FERNANDES AND 2 ORS., ... Petitioners

Versus

CENTRAL BANK OF INDIA, PANAJI., ... Respondent

Mr. S. S. Kantak, Senior Advocate with Mr. Jitendra P. Supekar,
Advocate for the Petitioners.

Coram:- M. S. SONAK &
PRITHVIRAJ K. CHAVAN, JJ.

Date:- 6th February 2019

P.C.

Heard Mr. S. S. Kantak, learned Senior Advocate for the
Petitioners.

2. The challenge in this petition is to the order dated 28th January, 2019 by which the Debts Recovery Tribunal (DRT) has dismissed the Petitioners' praecipe seeking postponement of the date as also seeking directions to the Respondent-bank to grant permission to the Petitioners to dispose of the penthouse property to the intending purchaser.

3. Mr. Kantak, learned Senior Advocate for the Petitioners points out that the auction proceedings are under challenge

before the DRT. The Loan bidder has offered Rs.4.15 crores or thereabouts for purchase of the penthouse property. Mr. Kantak, points out that the buyer which the Petitioners intend to bring has offered Rs.8.51 crores for the same property provided the bank issues NOC for sale of such property to such an intending buyer. Mr. Kantak submits that in this circumstances, necessary directions as prayed for by the Petitioners ought to have been issued by the DRT to the Respondent-bank. He points out that the DRT appears to have taken a view that the DRT has no power to issue such directions.

4. According to us, the matter is pending before the DRT. The order dated 28th January, 2019 is not some final order. The Petitioners have already questioned the auction proceedings and no doubt, all the issues which arise in such matters will be dealt with by the DRT. As it is, there are several decisions of the Apex Court which state that the extraordinary jurisdiction under Articles 226 and 227 of the Constitution of India is not to be ordinarily exercised in such matters when the Petitioners have alternate and efficacious remedy available under the statute. In the present case, the Petitioners have already availed an alternate remedy. The matter, according to us is writ large before the DRT. In case any adverse order is made by the DRT, the Petitioners also have a right of appeal.

5. Therefore, taking into consideration all these factors, we do not deem it appropriate to entertain this petition. This petition is therefore dismissed. There shall be no order as to costs.

PRITHVIRAJ K. CHAVAN, J.

M. S. SONAK, J.

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