

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (L) NO.3008 OF 2019

Jay Kumar Bharat Kumar Bera ..Petitioner
Versus
Authorized Officer of Union Bank
of India & Ors. ..Respondents

Mr. Prashant Pandey a/w Mr. Pradeep D. Singh, Mr. Darshit Jain &
Mr. Tushar Halwai, Advocates for the Petitioner.
Ms. Savita Nangare i/by Atham Legal, Advocate for the Respondents.

CORAM : PRADEEP NANDRAJOG, C.J. &
SMT. BHARATI DANGRE, J.
DATE : 11th NOVEMBER, 2019

P.C.

1] We find no merit in the Writ Petition. The Petitioner as also Respondent Nos.3 and 4 were the successful bidders at an auction conducted by the 1st Respondent on behalf of the 2nd Respondent pertaining for dues owned by a third party (not name given in the Writ Petition). Bid of the Petitioner and Respondent Nos.3 and 4 in sum of ₹ 3,02,25,960/- was accepted requiring the three to deposit 25% of the bid amount i.e. ₹ 75,56,490/- by 29th July 2019. The three deposited the said 25% of the bid amount and were required to pay 75% of the bid amount by 25th October 2019. The Petitioner and Respondent Nos.3 and 4 raised an issue of the flat being unencumbered on account of attachment issued by the Deputy

Commissioner of Sales Tax; notwithstanding the same the Petitioner and Respondent Nos.3 and 4 sought financial assistance from the 2nd Respondent Bank to pay the remaining 75% bid to the said Respondent.

2] After pleading said facts, prayer made is to direct Respondent Nos.1 and 2 to refund ₹ 75,56,490/- to the Petitioner and Respondent Nos.3 and 4. Alternatively it is prayed that time be extended to make the payment.

3] Now, if the Petitioner and Respondent Nos.3 and 4 have proceeded to avoid the sale on account of misrepresentation they cannot seek enforcement of the right under their bid being accepted. The Petitioner and Respondent Nos.3 and 4 have to elect.

4] Whatever option the Petitioner and Respondent Nos.3 and 4 want to exercise has to be by filing an proper application before the Recovery Officer and needless to state, obtain a decision from the Recovery Officer.

5] These are our reasons to dismiss the Petition.

**Balaji G.
Panchal**

Digitally signed by
Balaji G. Panchal
Date: 2019.11.13
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SMT. BHARATI DANGRE, J

CHIEF JUSTICE