

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.10.2019

CORAM

THE HONOURABLE DR.VINEET KOTHARI, ACTING CHIEF JUSTICE
AND
THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.30325 of 2019
and
W.M.P.No.30321 of 2019

Alleti Shrunitha Education Society,
rep. by its Chairman T.G.S.Mahesh
48, Casurina Drive, Neelangarai,
Chennai 600 041. Petitioner

Versus

1. Indian Bank
rep. by its General Manager,
Credit Division,
1st Floor, 'B' Wing,
254-260, Avvai Shanmugham Salai,
Royapettah, Chennai 600 014.
2. The Authorised Officer/
Assistant General Manager,
Indian Bank,
D.No.G-2, 3-6-784/12, Legend Venkatesha,
Narayanaguda, Hyderabad. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorari calling for the records pertaining to the impugned e-Auction sale notice dated 4.10.2019 issued by the 2nd Respondent and quash the same.

For petitioner : Mr.E.Narayanan

For Respondents : Ms.S.R.Sumathy

ORDER

(Order of the court was made by Dr.VINEET KOTHARI, ACJ.)

The Petitioner, Alleti Shrunitha Education Society has filed this Writ Petition challenging the Notice of Sale of immovable property intended to be undertaken by the Respondent, Indian Bank under the provisions of the SARFAESI Act.

2. The said Sale Notice issued under Rule 8 (6) of the Security Interest Interest (Enforcement) Rules, 2002 on 4.10.2019 shows the outstanding amount of Rs.108,73,08,086/- (Rupees One hundred Eight Crores Seventy Three Lakhs Eight Thousand and Eighty Six only) as on 30.9.2019. The intended e-Auction Sale is fixed on 8.11.2019 and e-Tender closing time shown in the notice is 5.00 pm on 6.11.2019.

3. Having heard the learned counsel for the Petitioner, we are of the opinion that the Petitioner has got an effective alternative remedy against the said Sale Notice before the DRT under Section 17 of the SARFAESI Act. Therefore, we are not inclined to interfere with such matter in any manner. However, we have indicated the learned counsel for the Petitioner that if the Petitioner deposits a sum of Rs.25 crores within a period of four weeks from today and another sum of Rs.25 crores within next one month thereafter, then, while relegating the Petitioner to the DRT for availing remedy under Section 17 of the Act, we may grant some interim relief for which, the learned counsel for the Petitioner, upon instructions, undertakes on behalf of his client, to abide by the said directions of the Court. He has made an endorsement on the case bundle to that effect and signed the same. He also undertook to file an Affidavit of the Petitioner to that effect within three days from today. It is made clear that neither reduction of amount nor extension of time shall be granted under any circumstances for aforesaid compliance.

4. Subject to the deposit of the said amount, the Petitioner is relegated to avail his remedy under Section 17 of the Act before the DRT. The Petitioner shall file his Application under Section 17 of the SARFAESI Act within a period of three weeks from today. Upon production of proof of payment in terms of the above directions the learned DRT is requested to take up the Application under Section 17 of the Act and decide the same in accordance with law.

5. Subject to the aforesaid compliance by payment of first deposit of Rs.25 crores within 4 weeks from today, the auction proposed to be held on 8.11.2019 shall stand postponed to the month of December 2019 and upon proof of payment of the second instalment of Rs.25 crores, the auction may be further postponed to January 2020. Upon proof of payment of the second instalment of Rs.25 crores also the DRT may proceed to decide the Application under Section 17 of the Act after hearing the parties concerned in accordance with law and further payments by the Petitioner and auction etc., shall be abide by the orders to be passed by the learned DRT in accordance with law.

6. In case of any non-compliance of either filing of affidavit or payment of instalments, this Writ Petition shall be treated as having been dismissed by this court.

7. With this observation and directions, the Writ Petition is disposed of. No costs. The connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

ssk.

To:

1. Indian Bank
rep. by its General Manager,
Credit Division,
1st Floor, 'B' Wing,
254-260, Avvai Shanmugham Salai,
Royapettah, Chennai 600 014.
2. The Authorised Officer/
Assistant General Manager,
Indian Bank,
D.No.G-2, 3-6-784/12, Legend Venkatesha,
Narayanaguda, Hyderabad.

+1cc to Mr.E.Narayanan, Advocate SR.89041

W.P.No.30325 of 2019

NMI (CO)
CB(14/11/2019)

सत्यमेव जयते

WEB COPY