

HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.1523 of 2019

ORDER: *(per V. Ramasubramanian, J)*

Challenging an auction notification issued by the Authorized Officer of 1st respondent/Bank, the Telangana State Civil Supplies Corporation Limited, came up with the above Writ Petition, contending that for the paddy entrusted by them to the 2nd respondent/mill, the 2nd respondent became liable to pay a huge amount of money and that on account of their failure to pay the money, steps for attachment and sale of their property were taken under the provisions of the Andhra Pradesh Revenue Recovery Act.

2. Heard Mr.A.Jagan, learned Counsel for the petitioner, Mr.Srikanth Reddy, learned Standing Counsel for the 1st respondent/Bank and Mr.M.Venkateswarlu, learned Counsel for the 2nd respondent/borrower.

3. On 29.01.2019, when the Writ Petition came up for orders as to admission, we passed an interim order to the following effect:

“Mr.Srikanth Reddy, learned Standing Counsel, takes notice for the first respondent bank. The learned Counsel for the petitioner shall take out personal notice to the second respondent returnable by 07.02.2019.

In the meantime, the auction may proceed, as scheduled on 31.01.2019. But the auction shall not be confirmed.”

4. Subsequently, the Bank proceeded with the auction and came up with a counter affidavit along with necessary enclosures, showing that the auction materialized with the highest bidder offering a sum of Rs.2,30,00,000/-, for the plant & machinery as well as land & building. There was yet another property which had already been sold by the Bank and a sum of Rs.5,53,50,000/- already realized. According to the counter affidavit of the bank, they had taken a Certificate of Recovery to the tune of Rs.4,22,40,868/- together with future interest.

5. The dues payable to the petitioner-Corporation, according to their counter affidavit, is Rs.1,29,31,918/-. Therefore, it is admitted by Mr.Srikanth Reddy, learned Standing Counsel for the Bank, that they have enough surplus to pay the dues of the petitioner-Corporation and they have no objection in making payment if this Court is of the considered view that payment should be made.

6. However, Mr.M.Venkateswarlu, learned Counsel for the 2nd respondent, contended that neither the bank has a valid claim nor the Civil Supplies Corporation has a valid and subsisting claim. In other words, his contention is that the Bank unlawfully brought a property which is not a secured asset, to sale in a manner not known to law and that the petitioner-Corporation is staking a claim for an abnormal amount which is not borne out of the contract.

7. In other words, the 2nd respondent, without initiating any independent action either before the Debts Recovery Tribunal or before this Court, wants to assail both the auction conducted by the Bank and the steps initiated by the Corporation. In the Writ Petition filed by the Civil Supplies Corporation, the 2nd respondent wants a relief of setting aside the auction conducted by the Bank.

8. But it is not possible. As on today, the measures taken by the Bank have not been under challenge before any forum, either the Debts Recovery Tribunal or this Court, at the instance of the 2nd respondent. Similarly, the steps taken under the Revenue Recovery Act by the petitioner-Corporation are also not under challenge at the instance of the 2nd respondent before any forum. According to the learned Counsel for the 2nd respondent, he met the Joint Collector and they arrived at an understanding. But that is not the way the proceedings under the Revenue Recovery Act can be challenged.

9. Therefore, the objections of the 2nd respondent are unsustainable and they overruled. The Writ Petition is disposed of directing the 1st respondent-Bank to pay to the petitioner-Corporation a sum of Rs.1,29,31,918/- in full and final satisfaction of their claims and the 1st respondent shall proceed to appropriate the balance sale proceeds towards their dues. If any surplus remains, the same shall be paid to the 2nd respondent, subject however to the right of the 2nd respondent to challenge the actions of the Bank and the Civil Supplies Corporation in a manner known to law.

Consequently, miscellaneous petitions if any pending in the writ petition shall stand dismissed. No order as to costs.

V. Ramasubramanian, J

Abhinand Kumar Shavili, J

March 05, 2019

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