

**HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE P.KESHA VA RAO**

WRIT PETITION Nos.5844 and 5855 of 2019

COMMON ORDER: (per Hon'ble Sri Justice V.Ramasubramanian)

Challenging the conditions imposed by the Debts Recovery Tribunal-II, Hyderabad, for the grant of Stay of auction, the borrower has come up with the above Writ Petitions.

Heard Mr.D.Prakash Reddy, learned Senior Counsel appearing for the petitioner and Mr.Ambadipudi Satyanarayana, learned Counsel for the respondents.

By the order impugned in the Writ Petitions, the Tribunal granted stay of auction proposed to be held on 15.03.2019 subject to payment of 15% of the dues before 12.00 Noon on 15.03.2019, and payment of another 15% of the amount within two weeks thereafter.

The impugned order was passed on 14.03.2019. The auction was fixed at 12.00 Noon on 15.03.2019. At about 2.30 P.M. on 15.03.2019, the petitioner paid the first installment of 15%.

In view of the above, the Bank proceeded with the auction and has also received 25% of the amount from the successful bidders. Therefore, the petitioner has come up with the above Writ Petitions.

There is no dispute about the payment of 15% of the dues at 2.30 P.M. on 15.03.2019. Therefore, we do not think that there is a deliberate attempt on the part of the petitioner to avoid payments.

Even now all that is requested is the enlargement of time to make payment of the 2nd installment.

Though the learned Counsel for the Bank furnished the history of the litigation from the year 2016 to highlight that the petitioner does not deserve any sympathy, it is seen that the Bank is not primarily aggrieved by the conditional order passed by the Tribunal. If the petitioner had paid the amount by 12.00 Noon on 15.03.2019, the Bank could not even have opposed the order. The fact that the 1st installment was paid within 24 hours, shows that the petitioner has at least mend their ways now.

Therefore, the Writ Petitions are disposed of granting time to the petitioner up to 30.04.2019 to make payment of the balance 15% of the amount as ordered by the Tribunal. If the petitioner fails to comply with the same, the Bank may proceed to receive the balance of consideration from the highest bidders and proceed further with the execution of the sale certificate and registration. If the petitioner makes payment as per this order, they will have the benefit of stay pending disposal of the appeal by the DRT.

Consequently, miscellaneous petitions, if any pending, in the Writ Petitions shall stand closed. No order as to costs.

V.RAMASUBRAMANIAN, J

P.KESHAHA RAO, J

27.03.2019
Gsn.