

HONOURABLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

HONOURABLE SRI JUSTICE P. KESHA RAO

WRIT PETITION No.8349 OF 2019

ORDER: *(Per Hon'ble Sri Justice V. Ramasubramanian)*

Aggrieved by the cancellation of an auction in which the petitioner turned out to be the highest bidder, he has come up with the above writ petition.

2. Heard Mr. N.V. Anantha Krishna, learned counsel for the petitioner and Mr. A. Satyanarayana, learned counsel for the respondents.

3. In an auction that was conducted by the respondents bank in terms of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security on Interest Act, 2002 (in short 'Securitisation Act') and the Rules issued thereunder, on 20.03.2019, the petitioner turned out to be the highest bidder. The bid made by him was accepted and he became liable to pay 25% of the bid amount forthwith or latest by the next date.

4. Contending that he was informed of stay order granted by the Tribunal, after the auction but on the same day, the petitioner sought clarification and according to him he was permitted to pay 25% of the amount on 26.03.2019. Subsequently, the bank cancelled the auction. Therefore, the petitioner is before this Court.

5. Rule 9 (3) of the Security Interest (Enforcement) Rules, 2002, is very clear on this aspect. Even the Bank does not have the

discretion to alter the statutory prescription. Therefore, irrespective of whether the bank was right or wrong, the bank could not have proceeded further with the auction held on 20.03.2019. The only thing that the petitioner can now expect is the refund of the money paid.

6. Therefore, the writ petition is disposed of merely directing the respondents to refund to the petitioner, the EMD as well as the amount paid by the petitioner within a period of one week from the date of receipt of a copy of this order. It is open to the petitioner participate in the next auction.

Miscellaneous Petitions, if any, pending in the writ petition shall stand closed.

V. RAMASUBRAMANIAN, J

P. KESHA RAO, J

April 30, 2019
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