

Sn 10.9.2020
7

W.P.A.6613 of 2020
C.A.N. 1 of 2020
(Old C.A.N.5430 of 2020)
Through Video Conference

MD. RAHMAT VS. UNITED BANK OF INDIA
& ORS.

Mr. Debanik Banerjee
Mr. Mainak Swarnokar
 ..for the petitioner
Mr. Basudev Mukherjee
Mr. Roshan Pathak
 ..for the respdts.4&5
Md. Rohan
 ..for the pvt. Respdt.

In view of the urgency, the matter is taken up virtually. The C.A.N.1/2020 (Old C.A.N.5430 of 2020 is disposed of.

The petitioner has challenged e-auction sale notice dated July 22, 2020 issued by the respondent nos.4&5. According to the petitioner, proceedings have already been initiated under section 17 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 before the Debts Recovery Tribunal for setting aside the proceedings and interim orders have also been prayed for. Directions for affidavits were given by the learned Tribunal on December 16, 2019 but the Bank has failed to file its affidavit-in-opposition. In the meantime, the Bank has issued e-auction sale notice in respect of the property of the petitioner. Thus, there

was no other alternative but to file this application for stay of the e-auction notice.

There is a proceeding pending before the Debts Recovery Tribunal. The petitioner has filed an application under Section 17 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. The proceedings are going on and the petitioner is always at liberty to approach the Tribunal for any order arising out of the said proceeding. The petitioner has an alternative efficacious remedy.

Failure of the Bank to file affidavit-in-opposition shall not stand in the way of the petitioner to move the Tribunal for interim order challenging the e-auction notice dated July 22, 2020 in accordance with law.

If any application is made by the petitioner for interim protection the same shall be decided by the learned Tribunal in accordance with law expeditiously on the ground urged therein.

This Court has not gone into the merits of the claim and counter claim of the parties. The Bank will be at liberty to file its affidavit-in-opposition within a week before the learned Tribunal.

This writ petition is disposed of.

There will, however, be no order as to costs.

Parties are directed to act on the learned

Advocate's communication.

(Shampa Sarkar, J.)

