14.10.2020
Item No. 73
Gc/Cp

WPA 8096 of 2020

Rithvik Bhattacharya
vs.
Central Bank of India Limited & ors.

(Via Video Conference)

Mr. Saptansu Basu.

.....for the petitioner.

Mr. Rahul Mishra

...for the Central Bank.

By this writ petition, the petitioner who is interested to purchase the property against which e-auctions have been held in terms of the provisions of the SARFAESI Act 2002, seeks protection of this Court with a prayer for restraining the bank from dealing with the said property and from entering into a one-time settlement with the borrower.

Mr. Basu, learned senior advocate submits that the borrower being a wilful defaulter was not entitled to enter into a one-time settlement with the bank. Mr. Basu submits that when the bank has been unsuccessful in selling the property by e-auction, there cannot be any impediment on the part of the bank in entering into a negotiation with the petitioner who offers six crores. Mr. Basu also submits that an application filed by the petitioner is pending before the learned Debt Recovery Tribunal, Siliguri.

Mr. Mishra, learned advocate for the bank, submits that several e-auctions have been held in respect of the said property, but the petitioner had never participated. According to him, the petitioner does not have any right to be selected as a purchaser of the said property when he had failed to participate in the regular e-auctions. It is further submitted on behalf of the bank that as the property could not be sold, the borrower has been given a notice to enter into a one-time settlement with the bank upon payment of some money. In response to the said notice, the borrower has already filed an application seeking one-time settlement and also has submitted 5% of the one-time settlement amount. He submits that the one-time settlement amount as quoted by the appropriate authority of the bank was Rs.2.38 crores. He further submits that the borrower's application is pending before the appropriate authority for disposal.

Having heard the learned counsel appearing on behalf of the parties, I am of the opinion that once the bank has expressed its desire to enter into a one-time settlement with the borrower and the borrower has taken steps, entertaining this writ petition at the behest of the petitioner who had failed to participate in the e-auctions, may not be proper. This Court refrains from passing any protective order in favour of the petitioner, restraining such one time settlement.

Moreover as submitted by Mr. Basu, the petitioner has filed an appropriate application before the Debt Recovery Tribunal.

Under such circumstances, this writ petition is disposed of with liberty to the petitioner to ventilate his grievances before the learned tribunal on the basis of the application which has already been filed before the learned tribunal. As it is urged that the bank is already negotiating with the borrower, there is some urgency in the matter and the learned tribunal is requested to expedite the hearing of the application in accordance with law. This Court has not entered into the merits of the claims of either of the parties and the learned tribunal is the competent authority to decide the application of the petitioner in accordance with law. This order should not be construed as a decision on the maintainability of the application filed by the writ petitioner in the Tribunal and the learned Tribunal shall decide all issues arising out of the said application.

All parties to act on the server copy of this order.

**(Shampa Sarkar, J.)**