IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.08.2020

CORAM

THE HON'BLE MR.JUSTICE M.M.SUNDRESH
and
THE HON'BLE MRS.JUSTICE R.HEMALATHA

W.P.No. 11789 of 2020
and W.M.P.No.14504 of 2020

K.Diravian .. Petitioner

vs

Central Bank of India,
Peelamedu Branch
rep. by its Chief Manager,
PSG Campus, Avinashi Road,
Coimbatore - 641 004. .. Respondent

Petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus directing the respondent to extend the time for payment of Rs.34.85 lakhs till 30th September, 2020 and after the receipt of said amount to issue the sale certificate in favour of the petitioner.

For Petitioner .. Mr.H.Mohammed Hussain

For Respondent .. Mr.M.L.Ganesh

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ORDER
(Order of the Court was made by M.M.SUNDRESH, J.)

The petitioner, who is the auction purchaser, after payment of 50% of the total amount seeks extension of time placing reliance upon the pandemic situation. It appears that the petitioner will have to pay the remaining amount of Rs.34.85 lakhs for which he seeks time till the end of September 2020. In the meanwhile, the re-auction sale notice was issued and the proposed auction is scheduled to be held on 04.09.2020.

2.Under similar circumstances, we have already taken a view that it would only be appropriate to permit the Bank to go on with the re-auction with liberty to the petitioner to participate. However, to show his bonafide, the petitioner will have to make a deposit as he wanted on or before 30.09.2020. If, in the re-auction, higher bid amount is offered, then it has to be confirmed accordingly. The petitioner may not have a vested right. However, in case, the bid amount is lesser, in the interest of all the stakeholders including the borrower, it would be appropriate to give extension of time to the petitioner. The aforesaid decision is being made as the petitioner may not have vested right, though there is some justification for non- payment. However, he seeks further time till the end of September, 2020, during which time, the lockdown is not available and normalcy is being returned albeit slowly.

3.Accordingly, the writ petition stands disposed of on the following terms:

(i)The petitioner shall deposit the remaining amount as agreed upon on or before 30.09.2020 in favour of the respondent Bank.

(ii)The proposed auction scheduled to be held on 04.09.2020 shall go on.

(iii)The petitioner is also at liberty to participate in the re-auction.

(iv)If the amount is less than what has been offered by the petitioner then the re-auction shall not be confirmed.

(v)In that eventuality, the remaining amount deposited by the petitioner can be appropriated by the respondent Bank and the consequently confirmation and sale certificate will have to be issued.

(vi)If the re-auction fetches higher amount in favour of third party, the petitioner is entitled for refund.

(vii)If in the re-auction, the petitioner again becomes the successful bidder and the amount is lesser, then the earlier auction for which the petitioner seeks extension will hold good.

The aforesaid order is obviously beneficial to all the parties including the borrower. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

mmi/ssm

To

The Chief Manager,
Central Bank of India,
Peelamedu Branch,
PSG Campus, Avinashi Road,
Coimbatore - 641 004.

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