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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 156/2020 & CM APPL. 415/2020

MANISH BASIA AND ANR. ..... Petitioners

Through : Ms. Pratiti Rungta and Mr. Sumit Pargal, Advs.

versus

PUNJAB NATIONAL BANK ..... Respondent

Through : Mr. Yashartha Gupta, Adv.

CORAM:
HON'BLE MR. JUSTICE RAJIV SHAKDHER

<u>O R D E R</u>
% **08.01.2020**

<u>CM No.415/2020</u>

1. Allowed, subject to just exceptions.

<u>W.P.(C) 156/2020</u>

2. In the writ petition, the following substantive prayer has been made:

> *"(a) Issuance of a Writ of Mandamus or any other appropriate writ, order or direction thereby directing the Respondent Bank to issue sale certificate of Property being entire 1st floor (without roof / terrace right) Plot No.217, SU Block, Pitampura, Delhi in the name of the petitioners."*

3. It is the case of the petitioners that apart from the 10% earnest money, paid towards auction of the subject property, the balance amount has been paid by the petitioners from their personal funds.

4. It is not disputed by Ms. Pratiti Rungta, who appears on behalf of the petitioners, that 10% of the bid i.e. the earnest money was paid by the partnership firm going by the name M/s Rose Metal Industries. Ms. Rungta

informs me that the petitioners are partners in that firm

5. It is in this context, Ms. Rungta says that the writ petition has been moved and the prayer extracted hereinabove is made therein. Ms. Rungta says that no prejudice will be caused to the respondent bank if the sale certificate is issued in favour of the petitioners as against the aforementioned partnership firm.

6. It is Ms. Rungta's contention that the TDS certificates have also been issued by the respondent bank in favour of the petitioners.

7. Ms. Rungta submits that if the sale certificate is not issued in favour of the petitioners, then, interest on capital borrowed for purchasing the subject property will not be allowed to be deducted in view of the provisions of Section 36(1)(iii) of the Income Tax Act, 1961.

8. In my view, the prayer as sought for in the writ petition cannot be granted. The Income Tax Authorities i.e. the Revenue is not a party to the instant writ petition.

9. While, there may be no prejudice caused to the respondent bank, there could be prejudice caused to the Revenue. However, that aspect of the matter is not before this court.

10. The petitioners will be at liberty to agitate their point of view before the Revenue as and when such an issue arises in accordance with the law.

11. Needless to add, the Revenue will decide the issue as per law.

12. The captioned writ petition is disposed of in the aforesaid terms.

RAJIV SHAKDHER, J

JANUARY 08, 2020/aj