

AD. 14.
January 13, 2021.
MNS.

W. P. A. 402 of 2021
(**Via video conference**)

Santanu Banerjee
Vs.
Punjab National Bank and another

Mr. Bikram Banerjee,
Mr. Sarada Prasad Ray

... for the petitioner.

Mr. Sudip Pal Chowdhury

...for the respondents.

Affidavit-of-service filed in Court be taken
on record.

Learned counsel for the petitioner argues
that the respondent-bank permitted itself to bid in
an auction regarding the petitioner's mortgaged
property, upon the petitioner having defaulted in
repayment, which would put the bank in an
advantageous position since it was itself the
authority holding the e-Auction.

Learned counsel appearing for the
respondent-bank cites Section 13(5A) of the
Securitisation and Reconstruction of Financial
Assets and Enforcement of Security Interest Act,
2002, and submits that where the sale of an
immovable property, for which a reserve price

has been specified, has been postponed for want of a bid of an amount not less than such reserve price, it shall be lawful for any officer of the secured creditor, if so authorised by the secured creditor in this behalf, to bid for the immovable property on behalf of the secured creditor at any subsequent sale.

Learned counsel further submits, in his usual fairness, that this is the first sale on the auction and, as such, the leave granted to the bank to participate is improper.

In view of such clear submission of the bank and, taking into consideration the materials on record, it is apparent that the bank cannot participate in the first bid as per law.

Accordingly, W. P. A. 402 of 2021 is allowed, thereby setting the impugned e-Auction sale notice for immovable assets under the 2002 Act, read with proviso to Rule 8(6) of the Security Interest (Enforcement) Rules, 2002, dated December 11, 2020 (Annexure- P1 at page – 10 of the writ petition).

However, it will be open to the bank to issue a further appropriate sale notice upon rectifying the error as pointed out hereinabove.

There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)