29.07.2021
(S/L-20)
Ct.-18
(Susanta)

(**Via Video Conference**)

C.O. 920 of 2021

Baladeb Saha
-Vs-
The State Bank of India & Ors.

Mr. Jay Saha,
Mr. Srijib Chakraborty,
Mr. Debabrata Roy,
..... For the Petitioner.

Ms. Aparajita Rao,
.... For the Opposite party.

Mr. Agniv Sinha,
.... For the Proforma Respondent no. 3.

The petitioner filed an application under Section 17 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 before the Debts Recovery Tribunal, Siliguri, giving rise to TSA/04/2017 in SA/24/2014.

The said application was disposed of by the Tribunal with the following order:-

> **"Notice U/S 13(4)(a) dated 29.11.2013, Sale Notice dated 18.02.2017, sale transaction dated 24.03.2017 and sale certificate dated 29.03.2017 are set aside. Defendant bank is directed to hand over**

> **possession of the secured assets to applicant borrower within 2 weeks from today. Defendant bank is further directed to refund the money received from sale proceed of the mortgaged property to the auction purchaser within 2 weeks from today."**

The bank, the opposite party no.1 herein aggrieved by the said order preferred an appeal before the Debts Recovery Appellate Tribunal at Calcutta being Appeal No. 154 of 2018 and the appeal was disposed of with the following order:-

> " **In view of the aforesaid, the Appeal is partly allowed. The impugned order to the extent of setting aside the sale is affirmed. However, the direction for restoration of the possession and revival of OTS are set aside. The bank is free to proceed further for sale of property in accordance with law from the stage of valuation of the property. The borrowers and the bank are also at liberty to settle the amount as OTS in view of the guidelines of the Reserve Bank of India and as per the Scheme of the Bank".**

The petitioner aggrieved by a portion of the aforesaid order of the Appellate Tribunal whereby the revival of the OTS proposal of the petitioner was set aside has filed the present revisional application under Article 227 of the Constitution of India.

Ms. Rao, learned advocate appearing on behalf of the opposite party no. 1 submits that the bank is now agreeable to revive the said OTS proposal of the petitioner and in considering the said proposal is also agreeable to give the credit to the petitioner of his earlier deposit of Rs.80,00,000/-(Rupees Eighty Lakh only) with the bank.

That being the stand of the bank, C.O. 920 of 2021 is disposed of by directing the bank to revive the OTS proposal of the petitioner and while considering the said proposal shall give credit to the petitioner of his earlier deposit of Rs.80,00,000/-(Rupees Eighty Lakh only) with the bank.

So far the claim of the auction purchaser, the opposite party no. 3 is concerned, the bank shall refund the money of the auction purchaser expeditiously in accordance with law.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Biswajit Basu, J.)