WPO/199/2021

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

AVLOKAN COMMOSALES PRIVATE LIMITED AND ANR.

-Versus-

STATE BANK OF INDIA AND ANR.

Appearance:
Ms. Sulogna Mukherjee, Adv.
Ms. Natasha Roy, Adv.
Ms. Arunima Lala Sengupta, Adv.
...for the petitioner.

BEFORE:
The Hon'ble JUSTICE RAJASEKHAR MANTHA
Date :16th July, 2021.

The Court : Affidavit of service filed in Court today is taken on record. Despite service respondents are not represented.

The writ petitioner participated in an auction conducted by the State Bank of India for sale of assets under the provisions of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002(SARFAESI Act). The subject matter of auction was also subject-matter in SA No. 168 of 2018 (M/s. Sancheti Electronics Limited & Ors. V/s. State Bank of India). The petitioner submits that it was declared successful and had put in the entire payment of a sum of ₹55,19,250/-. By an order dated 7th August, 2018 the Debts Recovery Tribunal – 1, Kolkata has stayed the issuance of Sale Certificate to the writ petitioner until disposal of the said SA.

Counsel for the petitioner submits that the State Bank of India should either issue a sale certificate or return the amount of ₹ 55,19,250/- deposited by the petitioner. It is submitted that the petitioner cannot be subjected to rigours and uncertainties of proceeding before the Debts Recovery Tribunal (DRT).

This Court has carefully considered the petitioner’s arguments. Disputed question of fact would have to be gone into by the Writ Court in having to decide the propriety of the sale certificate not having been issued in favour of the petitioner.

This Court is, however, of the view that the petitioner’s grievance could be addressed if the DRT – 1, Kolkata or any other Bench of the Tribunal, having jurisdiction over the matter, is directed to dispose of the said SA No. 168 of 2008 and the put up petitions, IA No. 1412 and 1413, within a period of two months from the date of communication of a copy of this order mandatorily and positively.

It is made clear that in the event of the sale being set aside, the petitioners shall be entitled to interest on the said sum of ₹55,19,250/- from the date of deposit of the said amount with the State Bank of India till the actual date of refund, at the prime lending rate of the bank or as may be determined by the Debts Recovery Tribunal in accordance with law.

With the aforesaid direction WPO/199/2021 is disposed of without any order as to costs.

The petitioner shall communicate a copy of this order to the respondents.

(RAJASEKHAR MANTHA, J.)

A/s.