IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.07.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.13535 of 2021

Silambarasan Maipal .. Petitioner

Vs.

State Bank of India
rep. by Authorised Officer
2nd Floor Red Cross Building
No.32, Red Cross Road, Egmore
Chennai 600 008. .. Respondent

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the respondent to consider the petitioner's representation dated 19.06.2021 and direct the respondent to grant some more time to pay the balance bid amount of Rs.31,87,500/- (thirty one lakh eighty seven thousand five hundred).

For Petitioner : Mr.S.Nambirajan

For Respondent : Mr.M.L.Ganesh

ORDER
(Made by the Hon'ble Chief Justice)

The petitioner participated at an auction sale conducted by the State Bank of India under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. The e-auction was held on February 10, 2021 upon the earnest deposit being tendered by the petitioner. The petitioner claims to have paid 25% of the total amount bid and some further amounts, but it is the admitted position that the entire consideration has not been paid.

2. A period of 90 days has lapsed from the date of the sale. The bank had issued notices reminding the petitioner that the balance payment had to be made within 90 days of the date of the sale. The petitioner says that because of the lockdown imposed following the second surge of the pandemic, the petitioner could not arrange the money to make the balance payment.

3. A secured creditor can enlarge the time for receiving the payment for a sale conducted by it under the said Act for a period of 90 days from the date of the sale. The applicable rules do not permit any further extension. Ordinarily, the secured creditor would have to go for a further sale, enforce the forfeiture clause to the extent that the secured creditor would have suffered loss on account of the failure of the original highest bidder to make the balance payment and go ahead with the matter in such manner.

4. However, the petitioner in this case offers to pay the interest for the delay in making payment of the balance consideration. This offer will enure to the benefit of both the bank and the borrower since the bid value, in effect, swells by the interest amount and the debt due to the bank is realised in greater extent. The bank says that no rate of interest lower than 7.65% would be acceptable to the bank since that is the minimum rate of interest which is charged by banks and financial institutions in respect of housing loans given by them.

5. In the event the petitioner offers to pay the balance consideration together with interest at the rate of 7.65% from the date of the auction till the date of payment within a month from date, the bank should consider such proposal sympathetically, particularly in the light of the difficulties faced by businesses during the lockdown period. It will be open to the bank in such event to accept the balance payment together with the interest and conclude the transaction by issuing a sale certificate in favour of the petitioner within two weeks of the payment being made by the petitioner.

W.P.No.13535 of 2021 is disposed of. There will be no order as to costs. WMP No.14400 of 2021 is closed.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

kpl
To
Authorised Officer
State Bank of India
2nd Floor Red Cross Building
No.32, Red Cross Road, Egmore,Chennai 600 008.

W.P.No.13535 of 2021

A.SK(05.07.2021)