IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.08.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.D.AUDIKESAVALU

W.P.No.14750 of 2021
and W.M.P.No.15648 of 2021

S.Sudhakar ...Petitioner

Vs.

Authorised Officer,
State Bank of India,
Stressed Recovery Branch,
Red Cross Building II Floor,
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 Certiorarified Mandamus calling for the records of the respondent bearing order No.SARB/CHE/KSV/2020-21 dated 11.05.2021 issued without considering the pandemic situation and in violation of principles of natural justice and to quash the same with consequential direction to the respondent to accept the balance amount of Rs.47,25,000/- relating to schedule of the property in E-auction sale dated 19.01.2021 even with bank interest following confirmation of sale advice dated 20.02.2021 by the respondent.

For Petitioner : Mr.Haja Nazirudeen,
Senior Counsel
for Mr.K.Sellathurai

For Respondent : Mr.M.L.Ganesh

ORDER

(Made by the Hon'ble Chief Justice)

This is another petition by an auction-purchaser seeking to cite the lockdown imposed over the last few months following the second surge of the pandemic to justify the failure to make the balance payment after putting in the initial consideration of 25% of the bid amount within the stipulated time.

2. In several matters of this kind, it has been the refrain of the secured creditor that in accordance with the Rules in such regard, the secured creditor has no authority to extend the time for making the balance payment by the auction-purchaser or highest bidder beyond 90 days from the date of the auction. In such circumstances, so as to balance the equities and also deal with the unforeseen situation brought about by the pandemic, an order was made which recorded that the secured creditor was agreeable to receive the payment beyond the period of 90 days subject to the auction-purchaser agreeing to pay interest at the rate of 9% per annum with monthly rests for the delayed period.

3. It is such aspect which has been indicated at paragraph 10 of the counter-affidavit filed by the secured creditor herein. Thankfully, the auction-purchaser is agreeable to comply with such condition of paying the balance consideration within a period of two weeks from date together with interest on the delayed period at the rate of 9% per annum with monthly rests.

4. To avoid any controversy, advocate for the bank should indicate the exact amount that would be due from the auction-purchaser on August 18, 2021, inclusive of the interest in terms of this order, so that the exact amount may be tendered on such date by the auction-purchaser to the secured creditor. It is made clear that the balance consideration, including the interest in terms of this order, should be paid by the auction-purchaser to the secured creditor by August 18, 2021 which implies that no personal cheque may be handed over to the secured creditor and the money should either be in the account of the secured creditor or it should be paid by unimpeachable instruments like a pay order or demand draft indicating the sum should be made over to the secured creditor by August 18, 2021.

W.P.No.14750 of 2021 is disposed of on the above basis and without any order as to costs. Consequently, W.M.P.No.15648 of 2021 is closed.

s/d-
Assistant Registrar(CS VII)

True Copy

Sub-Assistant Registrar

sra

To:

The Authorised Officer,
State Bank of India,
Stressed Recovery Branch,
Red Cross Building II Floor,
No.32, Red Cross Road, Egmore,
Chennai 600 008.

+1 CC to Mr.K.Sellathurai, Advocate, Sr 38250.

W.P.No.14750 of 2021

RLD(CO)
LS(05/08/2021)