

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.36799 of 2021

Ashok Kumar Mahto ***Petitioner***
Mr. Dhiren Kumar Mohapatra, Advocate
-versus-
Punjab National Bank, New Delhi ***Opposite Parties***
and others

Mr. Tuna Sahu,
Advocate for the Bank

CORAM:
JUSTICE JASWANT SINGH
JUSTICE M.S. RAMAN

ORDER (Oral)
04.05.2022

Order No.

07.

1. This matter is taken up through virtual/physical mode.
2. The auction purchaser is before this Court seeking the refund of the sale price offered by him for purchase of the secured asset in an auction sale conducted by the Authorized Officer, Punjab National Bank, Sambalpur towards recovery of the outstanding liabilities of M/s. Motel IB Valley, Proprietorship Unit of Shri Jogendra Swarnakar-the defaulting borrower. It is stated that the Petitioner was the highest bidder in the e-auction conducted on 30th July, 2018 and had deposited a sum of Rs.1,12,70,000/- towards the sale price. It transpires that the defaulting borrower filed S.A. No.81 of 2018 before the DRT, Cuttack challenging the auction sale notice dated 30th June, 2018 and the consequent sale proceedings. The Petitioner-auction purchaser was impleaded as a party. Learned Tribunal vide order dated 30th September, 2020 allowed the S.A. setting aside the sale proceedings, and consequently the amounts deposited by the auction purchaser were to be refunded. It is a conceded case that neither of the party i.e. the Bank nor the auction purchaser filed appeal before DRAT against the order passed by the DRT, Cuttack.

3. This writ petition has been filed as only Rs.95.00 lakhs were refunded and therefore, a direction is sought for the refund of the remaining balance amount along with interest.

4. In response, counsel for the Bank states that the Branch Manager concerned has obtained sanction from the superior/competent authority for release of the remaining balance amount of Rs.15,70,000/- which shall be positively remitted to the Petitioner-auction purchaser within next two weeks. As regards, the claim of interest, he submits that the DRT, Cuttack at the time of hearing had, not granted any interest and therefore, the claim for interest, if at all, has to be maintained before the DRT or the Appellate Forum in accordance with law.

5. In view of the above, this writ petition is disposed of as infructuous with a direction to the Bank to refund the remaining balance amount within next two weeks from the date of receipt of the copy of this order, failing which the Petitioner shall be entitled to interest @ 6% on the said amount from the date of accrual till the date of realization, and the Bank would free to recover the same from the sanctioning/Disbursing official concerned. As regards, the claim of interest, if any, de hors the above, the Petitioner is free to seek his remedy in accordance with law.

Issue urgent certified copy as per rules.

(Jaswant Singh)
Judge

(M.S. Raman)
Judge