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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 3176 OF 2022

Sonal Pachpute

....Petitioner

V/s.

IDBI Bank Limited and Ors.

...Respondents

Mr. Aradhye Sarang Satish for Petitioner.

Mr. Sunil Maruti Kadam for Respondent No.1.

CORAM : K.R. SHRIRAM &

A.S. DOCTOR, JJ.

DATED : 21st SEPTEMBER 2022

P.C. :

1. It is petitioner's case that petitioner had participated in the auction process initiated by Respondent No.1 – Bank in respect of residential flat admeasuring about 800 Sq. ft at Chinar Heights Co-operative Housing Society Limited, Erandwane, Pune. Petitioner was declared as successful bidder in the auction process and was asked by Respondent No.1 – Bank to deposit 25% of the total auction price as per terms and conditions. Admittedly, petitioner has deposited Rs.18,12,500/- with Respondent No.1 – Bank.

2. It is petitioner's case that when petitioner approached Respondent No.3 – Society requesting for No Objection Certificate in respect of the aforesaid flat which was auctioned by society, petitioner was informed by society that one C.K.P. Bank has lien on the flat and unless C.K.P. Bank

charges are cleared No Objection Certificate cannot be issued. Petitioner states that if only petitioner had been informed by Respondent No.1 – Bank either in the public notice or at the time of bidding, petitioner would not have participated in the bid.

3. Mr. Aradhye states that petitioner will be happy if Respondent No.1 returns 25% amount deposited by petitioner and if Respondent No.1 – Bank is going to return the amount within one week, petitioner would not press for interest being paid on the amount.

4. Mr. Kadam for Respondent No.1 – Bank submitted that C.K.P Bank does not have any charge but at the same time did not dispute that petitioner was not informed by Respondent No.1 – Bank that there was such an encumbrance through C.K.P Bank or third party. Mr. Kadam in fairness stated that Respondent No.1 – Bank will leave it to the wisdom of the court to pass appropriate orders and if petitioner wants the money back, Respondent No.1 – Bank would return the money.

In our view petitioner should be returned the 25% deposit made.

5. In the circumstances, Respondent No.1 – Bank is directed to return the amount deposited by petitioner, i.e., Rs.18,12,500/- without any deductions to petitioner within one week from today.

6. Since nothing survives in the petition, petition disposed with no order as to costs.

7. All to act on authenticated copy of this order. Mr. Kadam states that he will inform the concerned Manager of Respondent No.1 – Bank immediately so that the process of refund of amount will begin forthwith.

(A.S. DOCTOR, J.)

(K.R. SHRIRAM, J.)