

247(2)

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-16848-2022

Date of Decision: 11.10.2022

M/S SP CONSTRUCTIONS

...Petitioner

V/S

BANK OF INDIA

...Respondent

**CORAM: HON'BLE MR. JUSTICE M.S. RAMACHANDRA RAO
HON'BLE MR. JUSTICE DEEPAK MANCHANDA**

Present: Ms. Gurdeep Kaur, Advocate
for the petitioner.

Mr. G.S. Anand, Advocate for the respondent-bank.

M.S. RAMACHANDRA RAO J. (Oral)

In this present writ petition, the petitioner is an auction purchaser in an auction held on 30.10.2021 and has paid the full consideration for the same amounting to Rs. 3,62,74,300/-. It is seeking issuance of sale confirmation letter or in the alternative for the refund of the money which the petitioner had paid.

It is contended by counsel for the petitioner today that since litigation is pending in this Court and also before DRT-III, Chandigarh and there may be considerable delay in the petitioner getting possession of the property and since the petitioner has other liabilities to be paid for, the petitioner is requesting for refund of the entire amount deposited by it.

The counsel for the respondent-bank states that the respondent-bank is unable to execute the sale certificate in favour of the petitioner in view of the order passed by this Court on 16.11.2021 in CWP-23162-2021, filed by the borrower, which was made absolute vide order dated 03.03.2022 and unless the said order is vacated, it would not be possible for the respondent to

execute the sale certificate in favour of the petitioner. He further contends that the writ petitioner, having supported the respondent-bank in CWP-23162-2021, cannot now go back and seek refund of the bid amount deposited by it on account of the petitioner getting frustrated by the continuance of the ad-interim restraint order passed in CWP-23162-2021.

Having heard both sides, we are of the view that it cannot be said that the respondent-bank is at fault in not issuing the sale certificate or delivering possession of the secured asset to the petitioner-auction purchaser who has admittedly deposited the full bid amount within time, in view of the status quo order granted by this Court on 16.11.2021 in CWP-23162 of 2021, which was confirmed on 03.03.2022. But more than a year has elapsed since the said order has been passed and the petitioner contends that being in the business, it had to invest hard earned money in other businesses also, that petitioner has other liabilities to be paid, and that too in time, and since there is no possibility of the petitioner getting possession of the property in the near future in view of the litigation pending before this Court as well as the DRT-III, Chandigarh, petitioner would be entitled to sale consideration deposited.

Today by a separate order, we have disposed of CWP-23162 of 2021 which had been entertained at a time when there is no Presiding Officer in DRT-III, Chandigarh and had directed the said DRT to decide the SA-330 of 2017 filed by the borrower and permitted parties to raise all relevant contentions including subsequent events, if any. But while doing so, this Court had also maintained the status quo order passed by it on 16.11.2021 and 03.03.2022 till the disposal of the SA before DRT-III, Chandigarh.

Since the disposal of the SA as well as the interim applications

may take time and since the petitioner is now not interested in getting sale certificate, we direct the respondent-bank to refund the entire bid amount deposited by the petitioner in the auction held on 30.10.2021 within 4 weeks.

Writ petition is allowed.

In view of the above order, the respondent-bank is permitted to put the secured asset for sale again to realise its dues.

(M.S. RAMACHANDRA RAO)
JUDGE

(DEEPAK MANCHANDA)
JUDGE

11.10.2022

Ajay Goswami

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No