24.01.2023
Sl no. 9
Ct no. 2
P.M.

WPA 1116 OF 2023

Mr. Anil Show
- Vs –
The Reserve Bank of India & Ors.

Mr. Biswarup Biswas,
Mr. Kajal Ray
... for the petitioner
Mr. Pradip Kr. Ray,
Mr. Jaydeep Roy
... for the respondent No. 2.
Mr. Atindranath Mishra
... for respondent No. 4 and 5

Heard both the parties.

By this writ petition petitioner has challenged the impugned auction notice dated 15th December, 2022, issued by the respondent bank for recovery of loan admittedly received by the petitioner and has not been paid. According to the petitioner, the principal amount including interest due is Rs. 10,68,988/-. By this writ petition petitioner has prayed for relief of granting payment of the same in installment.

By the order of this Court dated 18th January, 2023 the petitioner was asked to file an undertaking in the form of an affidavit on terms and conditions of payment of installment to which petitioner has filed an undertaking in the form of affidavit agreeable to pay the aforesaid principal amount of loan with interest.

Learned advocate representing the respondent bank in question has disputed the figure of due presented by the petitioner and he places the instruction received by the respondent bank according to which the principal amount including interest etc. is in total 11,70,000/-. This Court in exercise of constitutional writ jurisdiction cannot adjudicate the dispute of the figure of amount between the petitioner and the respondent bank.

Petitioner has come up with a draft of Rs 5,50,000/- as payment of 50% towards the first installment and he hands over the said draft to the learned advocate representing the respondent bank. The balance amount as per computation of the respondent bank, shall be paid by the petitioner as second installment by 1st March, 2023 positively. The impugned auction notice dated 15th December, 2022 is stayed and shall not be given effect to and shall become totally ineffective immediately after payment of second installment.

In case of default in payment of second installment within the time stipulated herein the impugned sale order will become operative.

Immediately on the payment of second installment as per terms and conditions stipulated herein, the respondent bank shall release the title deed in question relating to the loan in question and all other legal consequences will also follow after the payment of second installment.

Instruction given by the respondent bank and affidavit of undertaking are kept with the record

With this observation and direction this writ petition being WPA 1116 of 2023 is disposed of.

(Md. Nizamuddin, J.)