07.08.2023
Sl. No.4(ML)
srm

C.O. No. 2675 of 2023

Mr. Partha Sarathi Ghosh

Versus

Punjab National Bank Housing Finance Limited & Anr.

Mr. Shuvasish Sengupta,
Mr. Abhrajit Roy Chowdhury,
Mr. Dibyayan Banerjee
…for the Petitioner.

Mr. Sourajit Dasgupta,
Mr. Niharika Singh,
Ms. Shubhangini Singh,
Mr. Rupal Singh,
Mr. Ashok Kumar Singh
…for the Opposite Parties.

The revisional application has been filed challenging an order dated July 19, 2023 passed by the learned Presiding Officer, Debts Recovery Tribunal-III, Kolkata.

By the order impugned, the learned Tribunal found that the reserved price, which was fixed at Rs.1,04,02,000/- did not suffer from any infirmity. The learned Tribunal held that the reserved price did not mean the valuation of the property, but it meant the price below which the property could not be sold.

Challenging fixation of the said reserved price, the petitioner had approached the tribunal. The learned tribunal rejected such application by dismissing IA/1729/23 which was filed in connection with SA/142/2022. It appears that

SA/142/2022 is pending. The petitioner's challenge to the SARFAESI proceeding, has not been disposed of as yet.

The bank submits that the property has been sold. The sale certificate has been issued and there is no scope for any interference by this Court either by setting aside the order impugned or by stopping the sale. It is further submitted that the order passed by the learned tribunal, which is the subject matter of challenge, is an appealable order.

The learned Counsel for the borrower has produced a document which shows that Rs.80,89,217/- was received by the bank and the principle outstanding after part prepayment was Rs.8,39,247/-. This document does not indicate that the price at which the property was sold, was below the reserved price.

As the petitioner is aggrieved with the reduction of the reserved price from approximately Rs.1,15,00,000/- to Rs.1,04,02,000/-, the petitioner had approached the tribunal by filing an application. The learned tribunal rejected such application. The petitioner could prefer an appeal.

There is no scope for any urgent interim order, in view of the fact that the bank specifically contended that sale in favour of the third party has been confirmed and the sale certificate has been issued. No case has been made out as to why the petitioner has approached this Court under Article 227 of the Constitution of India. No documents have been produced indicating that the sale was effected below the reserved price.

The petitioner is at liberty to approach the learned appellate tribunal in accordance with law, from the order impugned.

The revisional application is, thus, dismissed.

There will be, however, no order as to costs.

Parties are to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)