

25th September,
2023
(AK)
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W.P.A 18967 of 2023

Kakali Sarkar and others
Vs.
Union of India and others

Mr. Sandip Ray
Mr. Hiranmoy Debnath
Ms. Poly Banerjee
Ms. Paramita Dey

...for the petitioners.

Mr. Rudraman Bhattacharya
Mr. Sourav Kr. Mukherjee

...for the Union of India.

Mr. Indradeep Basu

...for the SEBI.

Mr. Tanoy Chakraborty
Ms. Srijani Mukherjee

...for the State.

1. Learned counsel for the SEBI files a supplementary affidavit where it is indicated by the SEBI that the property described as a vacant land at Mouza No. 155, which is serial no. B3 in the description of immovable properties, which is a part of the public sale notice which is challenged here, consists of not a vacant land but a property with a multistoried building thereon.

2. However, despite having been given opportunities, only some of the owners of the flats situated in the said building have been able to come up with satisfactory documents to show their ownership.

3. It is submitted that the SEBI has already gone ahead with auction of the rest of the property, leaving aside serial no. B3, in terms of the injunction order passed by the court.

4. It is submitted, however, that in the absence of any proper document being produced by any person to establish ownership in the property, there is no restriction on the SEBI to go ahead with sale of the said B3 property as well.

5. Learned counsel for the petitioners submits that the SEBI ought to hold such sale in respect of the serial no. B3 property only upon holding proper inspection and upon ascertaining the ownership of the property.

6. Upon perusing the documents-on-record, what is evident is that the property shown at serial no. B3 in the impugned e-auction notice is not a vacant property as described therein but comprises of a building standing on the land.

7. As such, since the SEBI has already gone ahead and concluded the e-auction proceedings regarding the other properties, leaving aside serial no. B3, no further relief can be granted to the petitioners at this juncture.

8. Hence, WPA 18967 of 2023 is disposed of with liberty to the SEBI to issue a fresh e-auction notice, including the serial no. B3 property, as described in the impugned e-auction notice, that is, the property at Mouza

no. 155, Thana & Sub-Registry-Ranaghat, Municipality-Ranaghat, District-Nadia, upon properly describing the same in the proposed e-auction notice regarding such property.

9. However, it is expected that the SEBI shall ascertain, before putting the said property on auction, that the property actually falls within the contemplation of the secured assets of the SEBI.

10. In any event, if any third party, including the present petitioners, have a right to the property comprised in the same, it will be open to the petitioners and such third parties to approach the SEBI with proper ownership documents in order for the SEBI to consider such aspect of the matter before going ahead with the sale.

There will be no order as to costs.

Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)