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19.10.2023
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IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. No. 25129 of 2023

M/s. Balaji Hydro Carbons
Private Limited & Ors.
Vs.
Punjab National Bank & Ors.

Mr. Pratik Majumder
.... for the petitioners

- 1.** Affidavit-of-service filed in Court today be kept on record.
- 2.** Learned counsel for the petitioners submits that the petitioners had preferred a challenge under Section 17 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 before the concerned Tribunal, that is, the Kolkata Debts Recovery Tribunal, Bench-2.
- 3.** Initially an interim order of protection was passed subject to the petitioners depositing an upfront amount of Rs. 5 lakh and giving a compromise proposal, which was duly done by the petitioners. However, ultimately during the pendency of the second compromise proposal of the petitioners, without considering the same finally, a further sale notice has been issued by the respondent-Bank.

4. It is pointed out by learned counsel for the petitioners that the petitioners are agreeable to pay a higher amount than the reserve price of Rs.230.65 lakh as depicted in the sale notice itself, which is not being accepted by the Bank, unreasonably.

5. Keeping in view such *prima facie* case of the petitioners and the bona fides of the petitioners as well, apart from the fact that the petitioners do not have any forum to move their matter due to the Second Bench of Kolkata Debts Recovery Tribunal being vacant, W.P.A. No. 25129 of 2023 is disposed of by granting an order of stay of operation of the impugned sale notice dated September 29, 2023 till January 31, 2024 or until further order of the Tribunal, whichever is earlier.

6. The petitioners shall approach the concerned Tribunal in the meantime, disclosing their offer with regard to purchase of the secured assets.

7. The petitioners will also be at liberty to approach the appropriate superior forum for allocation of their matter before a different Bench which is functioning for the purpose of hearing out the same expeditiously in the meantime.

8. It is made clear that the merits of the matter have not been determined by this Court and it will be open to the concerned Bench of the Debts Recovery

Tribunal taking up the petitioners' matter to decide the same independently and in accordance with law and for this purpose, if necessary, to rescind, vary, modify, vacate and/or extend the interim order granted herein.

9. There will be no order as to costs.

10. Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance of all necessary formalities.

(Sabyasachi Bhattacharyya, J.)