

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION 8231 OF 2022

Petitioner : Bank of Baroda Corporate Financial Services
Mantri Court,
39, Ambedkar Road, Pune,
Now transferred the said account to
Zonal Stressed Assets Recovery Branch,
Lanjekar Building, 2nd Floor, Adarsh Nagar,
Market Yard Road, Gultekdi, Pune – 411037,
Through its Authorized Officer,
Anilkumar Nandkishor Jha.

– Versus –

Respondents : 1. Union of India,
Through its Secretary,
Ministry of Finance, New Delhi.

2. Edelweiss Asset Reconstruction Company Limited,
Through its Authorized Officer,
Having its Office Edelweiss House, Off CST Road,
Kalina, Mumbai 400 098.

Mr. S.D. Khati, Advocate for the Petitioner
Mr. N.S. Deshpande, DSGI for Respondent 1.
Mr. N.B. Kalwaghe, Advocate for Respondent 2.

CORAM : **ROHIT B. DEO AND Y.G. KHOBRAGADE, JJ.**

DATE : **13th FEBRUARY, 2023.**

J U D G M E N T : *(Per Rohit B. Deo, J.)*

Rule. Rule made returnable forthwith. Heard finally with the
consent of the learned Counsel for the parties.

02] The challenge is to the E-Auction notice dated 02/12/2022 issued by respondent 2-Edelweiss Asset Reconstruction Company Limited (Reconstruction Company). A further direction is sought that the Reconstruction Company shall obtain fresh valuation report of the immovable property of the borrower, which is mortgaged, and fix the reserve price after consulting the consortium members.

03] We find it opposite to reproduce the substantive prayer clause (I) in verbatim.

“i) quash and set aside impugned E-Auction, notice dated 02/12/2022 (Annexure-11) scheduled on 22/12/2022 issued by respondent No.2 i.e. Edelweiss Asset Reconstruction Company Limited and further be pleased to direct the respondent No.2 to obtain fresh valuation report of the immovable mortgage property of borrower of envisaged in Rule 8(5) of Rules of 2002 and fixed the reserve prize in consultation with the consortium members and thereafter issue fresh E-Auction notice, in the interest of justice.”

04] The Reconstruction Company, which is the contesting respondent, has filed affidavit in the response dated 03/02/2023, paragraph (E) of which reads thus :

“E) As stated above, the concern of the present petitioner is also the concern of Respondent No.2 i.e. maximum recovery be made out of the secured asset. Thus, Respondent No.2 does not have any conflicting interest with the Petitioner and hence Respondent No.2 vide email dtd. 31st January, 2023, has also addressed/communicated to the Petitioner that the Petitioner can conduct the SARFAESI auction of the said property basis the valuation conducted by it and fix the reserve price accordingly. The Respondent No.2 shall in this regard give its no-objection to conduct the SARFAESI e-auction by the Petitioner. In view thereof, nothing now survives in the present petition.”

05] Learned Counsel for the Reconstruction Company Mr. Kalwaghe further invites our attention to the communication dated 31/01/2023 addressed by the Reconstruction Company to the petitioner, the relevant portion of which reads thus :

“2. We hereby state that we have perused the valuation report dated 19th December, 2022 provided by you and as a lender/secured Creditor who is seeking maximum price, we are agreeable to you/BoB putting the Chandrapur property on sale on auction on the basis of the valuation conducted by Bank of Baroda for price discovery. Further, we also provide our consent to Bank of Baroda to carry out the e-auction for the said property basis the valuation dated 19th December, 2022. **Furthermore, we suggest a monthly Joint Lenders Meeting (“JLM”) be conducted to**

review the sale progress of the said property and the JLM should also review the position of the outcome of sale of the said property after 6 months.”

06] We find that in view of the fair stand of the Reconstruction Company, the grievance of the petitioner-Bank, which is one of the members of the consortium of Bank, stands redressed sufficiently.

07] We, therefore, dispose of the petition. Rule accordingly with no order as to costs.

(Y.G. KHOBRADE, J.)

(ROHIT B. DEO, J.)

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