



WP No.25774 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.10.2023

CORAM

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

WP No.25774 of 2023

Bharathiraja : Petitioner

versus

The Authorised Officer,
Senior Chief Manager,
The Asset Reconstruction India Ltd.,
1G, 1st Floor Century Plaza,
No.560, Anna Salai, Teynampet,
Chennai 18.

: Respondent

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the respondent to refund the payment sum of Rs.85,40,000/- (Rupees Eighty Five Lakh and Forty Thousand only) made by the petitioner H-1 bidder in E-auction held dated 30.01.2023.

For the Petitioner : Mr.Vimal B.Crimson

For the Respondent : Mr.P.S.Ganesh

Page 1 of 6



WP No.25774 of 2023

ORDER

(Made by the Hon'ble Chief Justice)

We have heard Mr.Vimal B.Crimson, learned counsel for the petitioner and Mr.P.S.Ganesh, learned counsel for the respondent.

2. The respondent conducted auction of the secured asset. The auction was held on 30.01.2023. The petitioner was declared to be the highest bidder. The petitioner deposited 25% of the bid amount, amounting to Rs.85,40,000/-, out of the total bid amount of Rs.2,54,50,000/-. It is the case of the petitioner that the petitioner met with an accident and was immobile for a long period, as such, could not deposit the remaining 75% of the bid amount. Subsequently, another auction was conducted on 05.07.2023, with respect to the same property. The petitioner again participated and he emerged as the successful bidder, for a bid amount of Rs.2,54,30,000/-. Sale confirmation has been issued in favour of the petitioner.

3. It is the contention of the learned counsel for the petitioner that it was because of the circumstances beyond his control, 75% bid



WP No.25774 of 2023

amount could not be deposited by the petitioner during the earlier occasion. It is not a case of wilful default on the part of the petitioner. However, the petitioner was incapacitated to deposit the said amount because of the serious accident suffered by him.

4. The learned counsel for the respondent relies on Rule 9(5) of the Security Interest (Enforcement) Rules and submits that the respondent has a right to forfeit the amount, as the petitioner failed to deposit the remaining 75% of the amount within the stipulated time. However, the factum of the petitioner having met with a serious accident and was immobile for a longer period is not disputed by the respondent.

5. The factual matrix that the petitioner was the successful bidder in an auction held on 30.01.2023 and the petitioner depositing 25% of the amount i.e. Rs.85,40,000/-, is not disputed. It also appears from the records that the letter cancelling the sale is issued only on 07.06.2023. After the letter dated 07.06.2023 was issued, the petitioner represented to the respondent of the circumstances because of which he could not deposit the remaining amount.



WP No.25774 of 2023

WEB COPY

6. The petitioner, on 08.06.2023, requested the respondent to grant him 15 days' time to pay the remaining amount. Instead, the respondent went for fresh auction in July, 2023. Again the petitioner bid; however, for an amount which is Rs.20,000/- less than the earlier bid.

7. In normal course, certainly, we would not have exercised our discretion with regard to the return of amount. Considering the extraordinary circumstances that the petitioner was severely injured and was immobilised for quite a long time because of the accident and that the petitioner has purchased the same property in the fresh auction conducted by the respondent, we are inclined to exercise our writ jurisdiction for refund of the amount deposited by the petitioner; however, after deducting the expenses incurred by the respondent for the conduct of the auction.

8. In the light of the above, we pass the following order:

(i) The respondent shall refund the amount of deposit of Rs.85,40,000/- (Rupees Eighty Five Lakh Forty Thousand only) to the petitioner after deducting the amount of



WP No.25774 of 2023

expenses incurred by the respondent for conducting the process of sale, preferably within two months from today.

(ii) The writ petition is accordingly disposed of;

(iii) There will be no order as to costs.

(S.V.G., CJ.)

(D.B.C., J.)

20.10.2023

Index : Yes/No
Neutral Citation : Yes/No
tar

To

The Authorised Officer,
Senior Chief Manager,
The Asset Reconstruction India Ltd.,
1G, 1st Floor Century Plaza,
No.560, Anna Salai, Teynampet,
Chennai 18.



WEB COPY



WP No.25774 of 2023

THE HON'BLE CHIEF JUSTICE
AND

D.BHARATHA CHAKRAVARTHY, J.

(tar)

WP No.25774 of 2023

20.10.2023