

23
11.03.2024
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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 2043 of 2024

Pinaki Banerjee & Anr.
Vs.
State Bank of India & Anr.

Mr. Dipanjan Dutta,
Mr. Jay Manna,
Mr. Subhojit Chowdhury,
Mr. Aritra Ghosh
...for the petitioners

Mr. Pijush Kanti Roy,
Mr. Sourajit Mukherjee
...for the Bank

1. The affidavit-of-service and notice of mentioning filed in Court today be kept on record.
2. The petitioners have challenged a decision of the respondent-Bank to forfeit the earnest money deposits and further deposits made by the petitioners on the ground the petitioners could not comply with the conditions by making full payment within due time.
3. Learned counsel for the petitioners submits that a sympathetic approach ought to be taken in view of the petitioners being unable to put in the balance amount due to the medical conditions of the petitioner no. 2, the wife of petitioner no. 1. Relevant documents in that regard have also been annexed to the writ petition.

4. Upon hearing learned counsel for the parties, it transpires that the law is settled that in the event the auction purchaser fails to comply with the conditions of the auction purchase, no relaxation can be made regarding forfeiture of the amount already deposited.

5. However, nothing in the impugned decision prevents the writ petitioners to approach the respondent-Bank for a private treaty, as it transpires that even subsequent attempts of the Bank to sell the said property have met with failure.

6. Accordingly, W.P.A. No. 2043 of 2024 is disposed of by granting liberty to the petitioners to approach the respondent-Bank for entering into a private treaty to purchase the property and/or if a further auction is held, to participate in the said auction irrespective of the forfeiture of the petitioners' deposits at the earlier auction.

7. There will be no order as to costs.

8. 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.)