

14.08.2024

Item No. 13

Ct. no.2

b.r.

WPA 20263 of 2024

Ratneswar Bhatta

-Vs.

The State of West Bengal & Ors.

Mr. Arijit Bardhan

Mr. Sarosij Dasgupta

Mr. Steven S. Biswas

... For the Petitioner

Mr. Lalit Mohan Mahata, Id. AGP

Mr. Ziaul Haque

.... For the State-respondents.

Mr. Pradip Kumar Roy

Mr. Biplab Das

.... For the resp. no.2.

Mr. Krishnendu Banerjee

Md. Idrish

... for the Resp. no.4.

On the urgency pleaded on behalf of the petitioner and in view of the determination being assigned before this Court, this writ petition has been taken up for consideration by publishing the same in the daily cause list.

Affidavit of service filed in Court today, is taken on record.

One **Ayeshbag Samabay Krishi Unnoyon Samiti Limited** (for short, **the Borrower Society**) is the Borrower of a loan obtained from **respondent no.4**. The issue relating to fixing of quantum of loan and its default is already pending in a writ petition being **WPA**

8717 of 2022 pending before this Court. Meanwhile an ancillary issue had travelled before another co-ordinate Bench under Article 227 of the Constitution of India being **C.O. 243 of 2022**. The co-ordinate Bench by its order dated **July 7, 2023** disposed of the said Civil Revisional application with an elaborate finding.

The instant writ petition has been filed challenging an auction notice dated **July 11, 2024 annexure p-3 at page-222** whereunder the reserve price for sale of the schedule property was fixed around **Rs.13.62 crores**.

Referring to a valuation report, **annexure p-4 at page-223** to the writ petition, Mr. Sarosij Dasgupta, learned counsel appearing for the petitioner submits that the actual valuation of the schedule property is about **Rs. 77.57 crores**. He submits that there being a huge difference between the evaluated price by the Government Valuation Department and the reserve price fixed by the **respondent no.4**, if the sale takes place in terms of the said auction notice dated **July 11, 2024**, then this schedule property will be sold at a much under rated value and the Borrower Society will be seriously prejudiced.

The petitioner claims to be merely a member of the said Borrower Society. Mr. Pradip Kumar Roy, learned counsel appearing for the respondent no.2 submits that, the affair of the Borrower Society is now

under the control of the **Co-operative Development Officer, Murshidabad Range** who is acting as the Special Officer appointed by the jurisdictional Registrar of the Co-operative Society under the provisions of the statute.

Learned counsel for the petitioner submits that he has no knowledge as to the appointment of the said Special Officer.

Mr. Krishnendu Banerjee, learned counsel appearing for the respondent no.4 submits that his client is the lender bank who has advanced the loan to the said Borrower Society. The Borrower Society has defaulted and proceeding was initiated for recovery of the loan under the provisions of the **West Bengal Co-operative Societies Act, 2006** read with the provisions under the **Bengal Public Demands Recovery Act, 1913**. He submits that reserve price fixed under the said auction notice dated **July 11, 2024** was on the basis of Government evaluation obtained by the lender bank. The said issue regarding recovery is pending in the said writ petition being **WPA 8717 of 2022**.

After considering the rival contentions of the parties and upon perusal of the materials on record, this Court is of the view that in the instant writ petition, the issue is very limited to whether the reserve price fixed under the said auction notice dated **July 11, 2024** is correct or the valuation of the schedule property is

fixed by the State authority in **annexure p-4** to the writ petition is correct.

Considering the above, the **Inspector General (Registration), West Bengal** is requested to arrive at the correct evaluation of the schedule property in accordance with law and shall communicate his report of evaluation to the petitioner, the Co-operative Development Officer, Murshidabad Range and the respondent no.4.

The **petitioner, respondent no.4** and the **Co-operative Development Officer, Murshidabad Range** shall submit their respective documents in support of their respective contentions before the **Inspector General (Registration)** positively within a period of **two weeks** from the date of communication of this order. The **Inspector General (Registration)** then shall determine the valuation and send the same to the parties as indicated above within a period of **four weeks** from the date of receiving the said documents from the parties as referred to above.

It is made clear that this Court has not gone into the merits of the claim of this writ petition.

The Inspector General (Registration) shall be free to decide the issue in accordance with law with its independent mind.

The directions made above are mandatory.

In view of the above, the auction notice dated **July 11, 2024, annexure p-3 at page-222** to the writ petition and any steps taken or to be taken thereunder stand **set aside and quashed**.

After receiving the said valuation report from the **Inspector General (Registration)**, the **respondent nos. 4 and 5** shall take all necessary steps in accordance with law following the observations and directions made by the co-ordinate Bench in its order dated **July 7, 2023 passed in C.O. 243 of 2022**.

Mr. Lalit Mohan Mahata, learned Additional Government Pleader appearing for respondent nos. 1, 3 and 5 is requested to communicate this order to the Inspector General (Registration) forthwith.

Since affidavits are not called for, the allegations made in this writ petition are deemed not to have been admitted by the respondents.

With the above observations and directions this writ petition, **WPA 20263 of 2024** stands **disposed of**, without any order as to costs.

Photostat certified copy of this order, if applied for, be furnished expeditiously.

(Aniruddha Roy, J.)