

**IN THE HIGH COURT OF JUDICATURE AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

HEARD ON: 31.01.2025
DELIVERED ON: 31.01.2025

CORAM:
THE HON'BLE MR. CHIEF JUSTICE T.S. SIVAGNANAM
AND
THE HON'BLE MR. JUSTICE HIRANMAY BHATTACHARYYA

M.A.T. 1464 of 2024
+
I.A. No. CAN 2 of 2024
Pinaki Banerjee & Anr.
Versus
The State Bank of India & Anr.

Appearance:-

Mr. Gautam Chakraborty
Mr. Kartik Kumar Ray

.....For the Appellants

Mr. Om Narayan Rai
Mr. P. K. Ray

.....For the Respondents/Bank

JUDGMENT

(Judgment of the Court was delivered by T.S. SIVAGNANAM, C.J.)

1. This intra-Court appeal by the writ petitioners is directed against the order dated 11th March, 2024 passed in W.P.A. 2043 of 2024. In the said writ petition, the appellants had challenged the decision of the respondents/bank to forfeit the earnest money deposits and further deposits made by the appellants on the ground that the appellants could not comply with the conditions by making full payment within due time.
2. The appellants contended before the learned Single Bench that a sympathetic approach may be taken in the matter since the petitioners were unable to pay the balance amount due to medical condition of the 2nd appellant, the wife of the first

appellant and in this regard, relevant documents were also placed before the learned Single Bench.

3. While disposing of the writ petition, the learned Single Bench observed that nothing in the decision taken by the bank prevents the writ petitioners to approach the respondents/bank for a private treaty, as it transpires that even subsequent attempts of the bank to sell the property have met with failure. Accordingly, liberty was granted to the appellants/writ petitioners to approach the respondents/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 deposits at the earlier auction.
4. The appeal was heard on 4th September, 2024 and the submissions made on either side were noted. Subsequently, when the matter was heard on 25th September, 2024, the Court recorded the submission of the learned advocate for the appellants that certain discussions have taken place between the appellants and the respondents/bank and that there are good chances of the entire matter being settled and requests that the hearing of the matter be deferred. Accordingly, hearing of the matter was adjourned.
5. In the said order dated 25th September, 2024, the Court recorded the submission made on behalf of the appellants that they are ready and willing to deposit 30% of the balance amount within a time frame. Subsequently, the appellants appeared to have approached the respondents/bank and expressed their willingness to deposit the 30% of the balance amount so as to enable them to get the property and a sale certificate to be issued in the name of the appellants. This proposal made by the appellants appears to have found favourable to the respondents/bank but on account of the statutory embargo, the respondents/bank would not be in a position to extend the time for payment of

the balance 30% of the sale price and therefore, the appellants have come before this Court seeking for appropriate orders.

6. We are conscious of the fact that there is a statutory bar for extension of the time for payment of the sale consideration pursuant to the auction conducted by the respondents/bank. However, taking note of the peculiar facts and circumstances of this case and also noting the fact that the bank is unable to sell the property despite three fresh auctions were held, not only in the interest of the appellants, in the interest of the respondents/bank too, this Court is inclined to pass the appropriate directions so that the matter can attain its finality.
7. It is made clear that this order is being passed considering the peculiar facts and circumstances of the case and not to be cited as a precedent.
8. Accordingly, appeal and the connected application (I.A. No. CAN 2 of 2024) are disposed of by directing the appellants to pay the balance 30% of the sale price within a period 15 days from date and if the amount is remitted, the respondents/bank shall receive the same and issue sale certificate in favour of the appellants within a week from the date on which the payment is settled.
9. No costs.
10. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(T.S. SIVAGNANAM)
CHIEF JUSTICE

I agree.

(HIRANMAY BHATTACHARYYA, J.)