

SUPREME COURT OF INDIA

Pravin Gada

Vs.

Central Bank of India

(K.S.Radhakrishnan and Dipak Misra,JJ.)

18.09.2012

ORDER

K.S.Radhakrishnan, J.

1. These are the applications for seeking certain directions in view of the subsequent developments after the order passed on 5.7.2012.
2. We have heard Mr. C.A. Sundaram, learned senior counsel for the petitioners and Mr. Mukul Rohtagi and Mr. Jaideep Gupta, learned senior counsel for the Central Bank of India, respondent No. 1.
3. Before we advert to order dated 5.7.2012, it is necessitous to refer to order dated 27.3.2012. In the said order, after referring to the order passed by the High Court in W.P. No. 2689 and other connected matters, the interim order passed by this Court on 25.11.2011, recording the contentions of Mr. Sundaram, learned senior counsel for the petitioners and Mr. Jaideep Gupta, learned senior counsel for the Central Bank of India and taking note of the chart produced in respect of the dues of the Central Bank of India, Standard Chartered Bank and Workmen through Official Liquidator, this Court passed the following order: -

“It is submitted by Mr. Gupta that in fitness of things and regard being had to the concept of obtaining of the highest price in Court sale, having of auction is the warrant and, therefore, auction should be directed to be held. The learned senior counsel further submitted that the property is likely to fetch much more amount than that has been deposited by the petitioners. Mr. Sundaram, learned senior counsel would contend that the sale had been given effect to in the year 2006 on acceptance of 2.5 crores and with the efflux of time if there has been a price rise solely on the said base a public auction should not be directed. Be it noted that at one point of time, a third party had deposited 6 crores to purchase the property but later on he withdrew as the matter was litigated in Court. Having heard learned counsel for the parties and

regard being had to the totality of the circumstances, we issue the following directions: -

(i) The property in question be put to auction by issuing a public advertisement in at least two newspapers one in English and another in Kannada language having wide circulation in the city of Mysore inviting bids for the sale of the property.

(ii) It shall be mentioned in the advertisements that the reserve price is 3 crores and the same shall be deposited before the Recovery Officer of the DRT to enable one to participate in the bid.

(iii) Any one who would not deposit the amount would not be permitted to participate in the auction as speculative bids are to be totally avoided.

(iv) The newspaper publication shall be made within a period of two weeks stipulating that the deposit is a condition precedent for participation in the auction which shall be made before the DRT within a week from the date of publication of the advertisement in the newspaper.

(v) The auction shall be held within a period of two weeks from the issuance of the advertisement which shall state the specified time and place for the auction.

(vi) The petitioners without prejudice to the contentions to be raised and dealt with in these Special Leave Petitions shall participate in the bid without the deposit as they have purchased the property in the year 2006.

(vii) The bid shall not be finalized and the bid sheet shall be produced before this Court in a sealed cover.

We reiterate at the cost of repetition that the above arrangements are subject to the result of the final adjudication in these Special Leave Petitions. List the matter after five weeks.”

4. After the said order was passed two Interlocutory Applications forming Nos. 4-6 of 2012 were filed. This Court, looking at the facts and the contentions raised, passed the following order on the said applications: -

“These applications were preferred by the Bank stating that going by the present valuation the property will fetch nearly Rs.10 crore whereas the order stipulates Reserved Price only Rs.3 crores. Hence, the Bank has sought modification of the upset price fixed by the Court.Learned counsel for the Bank also submitted that as per the Debt Recovery Tribunal Act the time stipulated for auction is thirty days whereas

the order directs to conduct the auction within two weeks. To this extent the respondent seeks modification of that direction also. Learned counsel on the either side submitted that the auction should go on without any delay. Considering the facts and circumstances of the case we are inclined to dispose of these applications directing the Recovery Officer to go on with the auction within the time limit stipulated in the bid. The question as to whether the upset price has been correctly fixed or not will depend upon the bid amount offered by the bidders in the auction. With the above directions, the I.As are disposed of.”

5. In the present applications it has been asseverated that in compliance with the order dated 5.7.2012, the Recovery Officer of Debt Recovery Tribunal-I, Mumbai, ordered for publication of the notice in two newspapers which was published on 20.7.2012 calling upon interested parties to give their offer within seven days from the date of publication as directed by this Court vide order dated 27.3.2012. Pursuant to the publication carried in English and Kannada newspapers no other offer whatsoever was received by the Recovery Officer and till 7th only the offer of the petitioners, namely, Praveen Gada and Amarnath Singhla, was received.

6. When the matter was taken up, order dated 30.8.2012 passed in R.P. No. 419 of 2003 was brought to our notice. The said order reads as under: -

“As per directions of the Hon’ble Supreme Court vide its orders dated 27.3.2012 5.7.2012, advertisement was published fixing reserve price at Rs.3.00 Crores. Only one bid of Shri Pravin Gada Amarnath Singhla has been received on 07.08.2012 as per public notice. His bid was opened at the scheduled date time of the auction. He has given offer of Rs. 3 crores. As his participation in auction was without deposit as directed in above orders, there was no question of his depositing EMD. Relevant columns of Bid Sheet were accordingly filled in and signature of the bidder has been obtained. As per the directions, the said bid sheet be submitted to the Hon’ble Supreme Court. Apart from above, 3 offers in closed envelopes were received today, but those are not opened considered in view of the directions of the Hon’ble Supreme Court as per aforesaid orders. On the date of auction the above 3 closed envelopes containing offers have been received. This being new situation arisen at the time of auction, in my opinion it would be appropriate to bring this fact to the kind notice of the Hon’ble Supreme Court. Hence these 3 closed envelopes be also submitted to the Hon’ble Supreme Court. As per directions of the Hon’ble Supreme Court, the Bid Sheet at Exh. 154 be submitted to the Hon’ble Supreme Court in a sealed cover.”

7. The bid sheets were opened before us and we find that an offer amounting to Rs.3,30,00,000/- by Kumar Enterprises, Rs.3,30,00,000/- by Riddisiddhi Bullions Ltd. and Rs.3,30,00,000/- by Krishna Texturisers Pvt. Ltd. were deposited by way of bank drafts on 29.8.2012 and 30.8.2012 respectively.

8. It is submitted by Mr. Sundaram, learned senior counsel for the petitioners that as the said offers were not in accord, the same should not be considered and the petitioners should be treated as the highest bidder in the auction. Mr. Rohtagi and Mr. Gupta, learned senior counsel for the Central Bank of India, per contra, submitted that the price of the property as on today is worth more than Rs.10 crores and the reason for the offerees not coming is that the petitioners are in possession and they have put up a board indicating their name and status. It is urged by them that it is one thing to say that the auction is conducted by virtue of the order passed by this Court and the whole thing is subject to the pendency of the lis but it is another thing to see at the entrance that the board is fixed and the people are not allowed to survey the nature and character of the assets. The photographs of the board that have been put up are filed in Court and we have perused the same. Be it noted, the putting up of the said photographs is not disputed.

9.Regard being had to the facts and circumstances, we are of the considered opinion that there should be a re-auction and we are inclined to modify the conditions incorporated in the earlier order. Keeping in view the totality of circumstances we issue the following directions:

(i) The property in question be put to auction by issuing a public advertisement within two weeks in at least two newspapers, one in English and another in Kannada language, having wide circulation in the city of Mysore inviting bids for the sale of the property.

(ii) It shall be mentioned in the advertisement that the reserved price is Rs. 5 crores and the same shall be deposited by way of bank drafts drawn on a nationalized bank before the Recovery Officer of the DRT to enable one to participate in the bid. The advertisement shall stipulate that the deposit of the reserved price fixed by this Court is a condition precedent for participation in the auction.

(iii) It shall be clearly stated in the advertisement that the property would be available for inspection in presence of the Registrar of Civil Court or any equivalent officer nominated by the Principal District and Session Judge, Mysore, and it is so done to avoid the grievance from any quarter that the property was not available for proper verification. The inspection by any interested party shall be done within one week from the date of advertisement between 11.00 a.m. to 3.00 p.m.

(iv) During the entire period of inspection the concerned officer deputed by the learned Principle District and Sessions Judge, Mysore shall see to it that the board that has been fixed is removed from the site so that there can be inspection of the plot without any kind of pre-conceived notion by the perspective bidders.

(v) The aforesaid reserved price shall be deposited before the Recovery Officer of the DRT within ten days from the date of the advertisement. Any one who would not deposit the reserved price within the time limit, his bid shall not be considered.

(vi) The auction shall be held within a period of two weeks from the date of issuance of the advertisement which shall state the specified time and place for the auction.

(vii) The petitioners without prejudice to the contentions to be raised and dealt with in these Special Leave Petitions shall participate in the auction without the deposit as they have purchased the property in the year 2006.

(viii) The offerees who have already given the bids shall deposit the balance amount to meet the reserved price before the Recovery Officer of the DRT failing which they shall be ineligible to participate in the bid.

(ix) After the submission of the bids there shall be a public auction amongst the eligible offerees to get the maximum price.

(x) The auction shall not be finalized and the bid sheet shall be produced before this Court in a sealed cover for issuance of further directions, if required.

10. We repeat at the cost of repetition that the above arrangements are subject to the result of the final adjudication to the Special Leave Petitions.

11. A copy of the order passed today be sent by fax, e-mail and speed- post to the Principal District Judge, Mysore by the Registry of this Court.

12. List the matters on 1.11.2012.