

SUPREME COURT OF INDIA

D.Nageswar Rao

Vs.

S.B.I & Ors.

C.A.No.786 of 2016

(Kurian Joseph and R.F.Nariman, JJ.)

29.01.2016

JUDGMENT

Kurian Joseph, J.

(Arising out of SLP (C) No. 20607 of 2010)

1. Leave granted.
2. The appellant committed default in repaying the loan availed by him from the Respondent No.1-Bank. Consequently, the Bank initiated steps under The Recovery of Debts Due to Banks and Financial Institutions Act, 1993 to recover the loan amount and obtained a decree for an amount of Rs.92,94,183/-
3. Since the appellant could not satisfy the decretal amount, the Bank proceeded further and put the property to auction. Respondent No.3 is the auction purchaser. The property was auctioned for an amount of Rs.48,80,000/-. The Respondent No.3 had deposited the entire amount of Rs.48,80,000/- before the Debt Recovery Tribunal, though belatedly, and the same is kept in an interest bearing account.
4. When the matter came up on an earlier occasion, we directed the learned counsel for the Bank to take instruction as to what is the amount outstanding as on today. On written instruction it is informed that after adjusting the amount of Rs.60,00,000/- which the appellant deposited in pursuance of the order of this Court, outstanding dues as on today is Rs. 1,02,06,815/-.
5. The learned counsel for the appellant submits that the appellant may be permitted to pay the said amount. The only indulgence sought is that he may be permitted to pay the outstanding amount in installments.
6. Though, the request is seriously opposed by the learned counsel for the Bank, having regard to the past conduct of the appellant, in the interest of justice, we propose to give one

more opportunity to the appellant. After all, the bank need only get its money, even if the auction is confirmed in favour of the respondent auction purchaser, it will not meet even 1/3 of the dues. The appellant undertakes that the amount can be paid in monthly installment of Rs.15,00,000/-.

7. The appeal is hence, disposed of as follows:

“1) The appellant will clear the outstanding dues of Rs 1,02,06,815/- by payment in monthly installments at the rate of Rs. 15,00,000/- per month to be paid by 5th of every month starting from March, 2016.

2) In case there is any default of two consecutive installments, we make it clear that the appellant shall not be entitled for any indulgence and his appeal will stand dismissed and it will be open to the Bank to proceed with the matter in accordance with law.

3) The deposit made by Respondent No.3 will continue before the Debt Recovery Tribunal till the whole outstanding dues are cleared by the appellant as above. In case, the appellant clears the amount as per this Judgment, the appellant shall pay an amount of Rs.5,00,000/- towards compensation to Respondent No.3 and the Bank shall also pay an amount of Rs.5,00,000/- towards compensation to respondent No.3. The deposit made by the auction purchaser, along with interest accrued shall be returned to him. The payment as above shall be made within one month from the date of appellant clearing the dues to the Bank.”