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WP-10385-2013

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VIVEK RUSIA

&

HON'BLE SHRI JUSTICE PRADEEP MITTAL

ON THE 8th OF DECEMBER, 2025WRIT PETITION No. 10385 of 2013*PUNJAB NATIONAL BANK**Versus**SHRI SAKHROO RAM AND OTHERS*

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Appearance:

Shri Rajesh Maindiretta - Advocate for petitioner.

Shri Siddharth Sharma & Shubham Manchani and Shri Devendra Kumar
Prajapati - Advocate for respondent No.4.
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ORDER

Per. Justice Pradeep Mittal

The petitioner / Bank has filed the present writ petition being aggrieved by the order dated 03.04.2013 passed by the Debts Recovery Appellate Tribunal, Allahabad (hereinafter referred to as "DRAT"), whereby the order dated 25.04.2012 passed by the Debts Recovery Tribunal, Jabalpur (hereinafter referred to as "DRT") in S.A. No. 70/2009 has been set aside and the petitioner Bank has been directed to issue a sale certificate in favour of respondent nos. 1 to 3 auction purchaser.

2. Brief facts necessary for adjudication of the present writ petition are that the petitioner Bank initiated proceedings under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as "the Act of 2002") against respondent no. 4 – Shri Atul Anand borrower. The said action was challenged by respondent no. 4 by filing Securitisation Application No. 70/2009 before the DRT on 6/5/09, Jabalpur, wherein



an interim order dated 22/5/09, directing maintenance of status quo was passed.

3. Before filing of the securitisation application, the Bank issued an auction notice dated 21.04.2009 for sale of the secured asset, fixing the auction on 27.04.2009 with a reserve price of Rs. 27.00 lakh. Respondent nos. 1 to 3 participated in the auction and submitted a bid of Rs. 27.15 lakh as against the outstanding dues of Rs. 40,95,384/-. The entire bid amount was deposited by respondent nos. 1 to 3. However, due to the subsisting interim order of status quo passed by the DRT, neither the sale certificate was issued nor possession of the property was handed over.

4. The OTS tender of respondent nos. 1 to 3 was accepted by the petitioner Bank vide letter dated 28.04.2009, wherein it was specifically stated that the acceptance of sale was subject to confirmation by the Bank as secured creditor. The bidders were directed to deposit 25% of the sale amount and the balance on or before 14.05.2009.

5. During pendency of the securitisation application, respondent no. 4 approached the petitioner Bank with a proposal for settlement. Since the sale had not been confirmed, the Bank accepted the settlement for a sum of Rs. 68.14 lakh, which amount was deposited by respondent no. 4, thereby liquidating the entire outstanding dues.

6. The DRT, Jabalpur, vide judgment dated 25.04.2012, took note of the settlement arrived at between the Bank and respondent no. 4 and permitted respondent no. 4 to settle the dues. The Bank was directed to release the title deeds after receipt of the settlement amount. To compensate respondent nos. 1 to 3, the DRT further directed payment of interest @ 7.5% per annum on the amount of Rs. 27.15 lakh, along with costs of proceedings.

7. Learned counsel for the petitioner submits that the DRAT, Allahabad has committed a grave error in law and on facts in holding that the sale stood confirmed merely because the entire bid amount was deposited by respondent nos. 1 to 3. It is



contended that mere issuance of a letter accepting the bid does not confer any vested right upon the bidder, particularly when the acceptance letter itself categorically stipulated that the sale was subject to confirmation by the Bank. Learned counsel further submits that in the present case the sale was never confirmed, and no sale certificate was issued due to the subsisting order of status quo passed by the DRT, Jabalpur. It is urged that the DRAT, Allahabad failed to appreciate the settled legal position that the right of an auction purchaser accrues only upon confirmation of sale and issuance of sale certificate. Learned counsel also submits that respondent no. 4 has paid the entire settlement amount of Rs. 68.14 lakh, resulting in closure of the loan account and release of title deeds in pursuance of the DRT's order. It is further contended that respondent nos. 1 to 3 were adequately compensated by the DRT, Jabalpur by grant of interest and costs and had no locus to challenge the settlement arrived at between the Bank and the borrower. Accordingly, it is prayed that the impugned order dated 03.04.2013 passed by the DRAT, Allahabad be quashed.

8. Respondent no 4 submitted that respondent had already deposited entire lone which the Bank is intending to sell the Secured Asset and bank accepted it with the permission of DRT, Jabalpur confirmation of auction sale will cause irreparable loss and injury to the respondent No 4. The right of redemption for the purposes of section 13(8) of the SARFAESI Act had already been exercised by the respondent No. 4 as depositing the entire lone amount and supported to the petitioner.

9. On the other hand, learned counsel appearing for other respondents supported the impugned order passed by the DRAT and submitted that once the entire auction amount was accepted by the Bank, the sale stood concluded, and the Bank had no authority to enter into a subsequent compromise with respondent no. 4.

10 Respondents placed the reliance on 2024(2) SCC1 CELIR LLP VERSUS BAFNA MOTORS (MUMBAI) where in the apex court has held the confirmation of sale by the Bank under Rule 9(2) of the Rules of 2002 invests the successful auction



purchaser with a vested right to obtain a certificate of sale of the immovable property in form given in appendix (V) to the Rules in accordance with Rule 9(6) of the SARFAESI. (iii) In accordance with the un amended Section 13(8) of the SARFAESI Act, the right of the borrower to redeem the secured asset was available till the sale or transfer of such secured asset. In other words, the borrower's right of redemption did not stand terminated on the date of the auction sale of the secured asset itself and remained alive till the transfer was completed in favour of the auction purchaser, by registration of the sale certificate and delivery of possession of the secured asset. However, the amended provisions of Section 13(8) of the SARFAESI Act, make it clear that the right of the borrower to redeem the secured asset stands extinguished thereunder on the very date of publication of the notice for public auction under Rule 9(1) of the Rules of 2002. In effect, the right of redemption available to the borrower under the present statutory regime is drastically curtailed and would be available only till the date of publication of the notice under Rule 9(1) of the Rules of 2002 and not till the completion of the sale or transfer of the secured asset in favour of the auction purchaser. (iv) The Bank after having confirmed the sale under Rule 9(2) of the Rules of 2002 could not have withhold the sale certificate under Rule 9(6) of the Rules of 2002 and enter into a private arrangement with a borrower. (v) The High Court under Article 226 of the Constitution could not have applied equitable considerations to overreach the outcome contemplated by the statutory auction process prescribed under the SARFAESI Act. (vi) The two decisions of the Telangana High Court in the case of Concern Readymix (supra) and Amme Srisailam (supra) do not lay down the correct position of law. In the same way, the decision of the Punjab and Haryana High Court in the case of Pal Alloys (supra) also does not lay down the correction position of law. (vii) The decision of the Andhra Pradesh High Court in Sri Sai Annadhatha Polymers (supra) and the decision of the Telangana High Court in the case of K.V.V. Prasad Rao Gupta (supra) lay down the correct position of law while interpreting the amended



Section 13(8) of the SARFAESI Act.

11. Respondent has relied on judgment 2012 (1) MPLJ 548 Gaurav Enterprises Vs. State Bank of India, it was held that mere issuance of sale certificate will not bestow any right in favour of the auction-purchaser and unless actual sale deed is executed, there is no 'sale' in the eyes of law and power of redemption can be exercised by the bank. In the opinion of this Court, this argument is liable to be rejected. The language of section 13 (8) of SARFAESI Act is very clear, which contains the words 'before the date fixed for sale or transfer'. The intention of the Legislature appears to be the date fixed for sale and not the actual sale. The Statute is accordingly designed and worded. Thus, before date fixed for sale, the borrower could have exercised the same and section 13 (8) permits the bank to do the same. In other words, section 13 (8) even prohibits the bank to transfer or sell the secured assets before the date fixed for sale and gives an opportunity to the borrower to repay all dues, costs, charges and expenses incurred by the bank. However, once sale certificate is issued, the bank cannot invoke section 13 (8) of SARFAESI Act and section 60 of TP Act has no application. Accordingly, the judgment cited by Shri Raju Sharma in M/s. L.K. Trust (supra) has no application in the fact situation of this case.

12. Respondent placed reliance in 2012 MPLJ 670 Saroj v/s Gaurav Enterprises it was held that the Division Bench of Madras High Court in the case of K. Chidambaram Manickam v. Shakeena and others, reported in AIR 2008 Madras 108. has discussed in detail the provisions of section 17 (2) (xii) of the Registration Act and also discussed the SARFAESI Act and Transfer at Property Act and right of redemption and has held that right of redemption will not prevail over sales already effected under SARFAESI Act and once the sale has been confirmed under the provisions of SARFAESI Act the sale becomes complete. We are in agreement with the findings recorded by the Division Bench.

13. Respondent has reliance the judgement of coordinate bench of this High court



writ Petition No 2829/2024 Smt. Swati Patel v/s Bank of India and others. passed on 09 April 2025, it was noted by the coordinate bench of this High court is that The Apex Court in the matter of Mathew Vargese (supra) found no inconsistency between the unamended Section 13(8) of the SARFAESI Act and general right of redemption under Section 60 of the Transfer of Property Act, 1882 and held that the right of the borrower to redeem the secured assets was available to sale and transfer of some secured assets until and unless by the act of the parties, the same has been extinguished. Similar view was taken by the Apex Court in the matter of Celir LLP (supra) and it is held that it is equally well settled that the rights credited for the benefit of the borrower under the SARFAESI Act can be waived by expressed act of the parties or by implied conduct of the parties.

14. Respondent has placed reliance on the judgement 2024 SCC Online SC 2878 IDBI Bank v/s Ramswaroop , in that judgement it was held that as far as the filing of Writ Petition No. 12390 of 2018 by one of the guarantors is concerned, an interim stay order was passed therein on 18.04.2018 by which time the auction had already taken place and confirmed. The said writ petition was ultimately dismissed on 18.07.2018 and as such the interim stay order ceased to exist. The interim stay order granted therein was of no effect insofar as the issuance of sale certificate to the respondents was concerned as the sale had already taken place and stood confirmed before the passing of the interim stay therein. There was no direction or stay on the issuance of sale certificate. The passing of the interim stay order in the above writ petition was not on account of the respondents so as to assign any default on their part in depositing the balance sale consideration within the time stipulated.

15. After considering the all judgement the legal position is that after amendment of the SARFAESI Act, in 2002, the amended provisions of Section 13(8) of the SARFAESI Act, make it clear that the right of the borrower to redeem the secured asset stands extinguished thereunder on the very date of publication of the notice for



public auction under Rule 9(1) of the Rules of 2002. In effect, the right of redemption available to the borrower under the present statutory regime is drastically curtailed and would be available only till the date of publication of the notice under Rule 9(1) of the Rules of 2002 and not till the completion of the sale or transfer of the secured asset in favour of the auction purchaser.

15 In present Case the notice under Rule 9(1) of the Rules of 2002 issued on 20/04/09 and auction was bid for 27.15Lacs against the due amount 40,95,384 on the date 27/4/2009. SA application no 70/09 was filed on 6/5/09 Before filing the SA application auction proceedings was completed . Therefore, interim order dated 22/5/09 passed by DRT, Jabalpur has no effect to quashed the auction on the date 27/4/2009. DRT order has only precluded the bank to issue sale certificate nothing more. It is very well clear the auction proceedings is completed on the dated when the bid was accepted, before accepting the bid borrower has a right to redeem the mortgage property not till the completion of the sale or transfer of the secured asset in favour of the auction purchaser.

16. After auction proceedings of mortgage property is completed, bank has no right to accepted one time settlement with the permission of the DRT, Jabapur because right to auction purchaser has been created on the date when the auction was completed. Borrower has not challenged the order of DART Allahabad only support of bank appeal, Therefore, no irregularity found in the order of DRAT Allahabad.

17. The 2016 amendment to Section 13(8) of the SARFAESI Act drastically curtailed the borrower's right of redemption, extinguishing it upon the publication of the sale notice, not upon the final registration of the sale certificate. It clarified that this amended provision has retrospective application to all live claims and proceedings. the SARFAESI Rules envisage only a single, composite notice of sale, and the concept of "publication" in Section 13(8) encompasses the service, affixation, and public notice of this sale notice as required by the rules. Consequently, the special



provisions of the SARFAESI Act override the general right of redemption under the Transfer of Property Act, and writ jurisdiction should not be exercised to overreach a concluded statutory auction process.

18. With the above consideration we are of the view the learned DART, Allahabad has not committed any error to set aside the order passed by the DRT Jabalpur. Therefore, writ petition is dismissed.

No order of cost.

(VIVEK RUSIA)
JUDGE

(PRADEEP MITTAL)
JUDGE

Praveen