
(2012) 09 AHC CK 0184
In the Allahabad High Court
Case No : Writ-C No. 47011 of 2012

Harsh Medical Devices

APPELLANT

Vs

State of U.P.Through Chief Sec?Retory and Others

RESPONDENT

Date of Decision : 14-09-2012

Acts Referred:

Citation : (2012) 09 AHC CK 0184

Hon'ble Judges : Ashok Bhushan, J and Abhinava Upadhyia, J

Final Decision : Disposed Of

Judgement

AbhiNava Upadhyia, JJ.—Heard learned Counsel for the petitioners, Sri Anadi Krishna Narayana, learned Counsel appearing for the Bankrespondents No. 3 and 4 and the learned Standing Counsel appearing for the Staterespondent Nos. 1 and 2.

2. With the consent of learned Counsel for the parties, the writ petition is being finally disposed of.

3. By means of this petition, the petitioner has prayed for quashing the recovery proceedings initiated by the Bank in pursuance of the auction notice dated 10.8.2012.

4. Learned Counsel for the petitioner submits that the petitioner had taken a loan of Rs. 14,00,000/ in the year 2009. On default being committed recovery proceedings have been initiated under the SARFAESI Act, 2002 (in short the Act). In the auction notice dated 10th August, 2012 outstanding amount against the petitioner is mentioned as Rs. 15,33,561 plus interest and other charges and 18.9.2012 is fixed for auction of the mortgaged property.

5. Learned Counsel for the petitioner submits that the petitioner accepts the entire liability and is ready to pay the outstanding amount provided the petitioner is given some reasonable time to deposit the outstanding amount.

6. Learned Counsel for the Bankrespondent submits that the petitioner may be

asked to show his bona fide to deposit some amount before the auction and thereafter to deposit the entire outstanding amount within the time allowed by this Court and the event of petitioner committing default in making deposit as directed by this Court, liberty be given to the Bank to take action under the said Act.

7. Considering the facts and circumstances of the present case, ends of justice would be served if the petitioner is given an opportunity to clear off the entire outstanding amount.

8. We dispose of the writ petition with the following directions:

1. The petitioners shall deposit Rs. 2,00,000/ (Rs. Two Lac) on or before the date of auction in the Bank.
2. On deposit of the said amount on or before the date of auction, the Bank will not proceed for auction.
3. After deposit of Rs. 2,00,000/the Bank shall provide statement of account to the petitioner and the subsequent amount shall be deposited by the petitioner in eight equal quarterly instalments and the first instalment shall be deposited on or before 31st October, 2012 and rest thereafter within every three months.
4. In the event of petitioners committing any default in depositing, the amount as directed above, the respondents Bank will be at liberty to proceed against the petitioner under the said Act.
5. Subject to payment as directed above, no recovery charges shall be realized from the petitioner by the Bank under the said Act.

With the above observations and directions, the writ petition is disposed of finally.