(2013) 02 P&H CK 0184

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 10957 of 2012

M/s. S.R. Forging Ltd. and Another — APPELLANT

Vs

Uco Bank and Others — RESPONDENT

Date of Decision : 19-02-2013

Acts Referred:

Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI) — Section 18

Citation : (2013) 170 PLR 89 : (2013) 120 RD 261

Hon'ble Judges : Ritu Bahri, J;Hemant Gupta, J

Bench : Division Bench

Advocate : Rohit Suri, for the Appellant; S.S. Pathania for the Bank and Mr. Anand Chhibbar with Mr. Vaibhav Sahni, for the Respondent

Judgement

Hemant Gupta, J.—Challenge in the present petition is to the orders passed by the Debts Recovery Appellate Tribunal Delhi (for short the "Tribunal") dated 30.4.2012 (Annexure P-14) and dated 13.7.2012 (Annexure P-15), whereby the appeal filed by the petitioners-herein was not entertained for failure to comply with the requirement of law i.e. the deposit of 50% of the due amount before entertainment of the appeal. Challenge in the appeal was to the sale proceedings whereby a bid of Rs. 17.75 crores as against the reserved price of Rs. 17.17 crores was received in respect of the property of the petitioners herein. It is the case of the petitioners that the total amount due and payable by the petitioners was Rs. 18.24 crores. Once, the substantial amount has been received by the Bank in pursuance of the auction conducted, the requirement of pre-deposit in terms of the proviso to Section 18 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short the "Act") stands satisfied as the substantial loan amount has already been received by the Bank. The condition of pre-deposit in these circumstances, over and above the sale price received by the Bank, will in fact lead to undue enrichment in the hands of the Bank when substantial amount to the loan amount stands liquidated by virtue of the auction.

2. At this stage, we find that out of total due amount of Rs. 18.24 crores, Rs. 17.75 crores have been received by the Bank in a public auction. Therefore, the deposit of 50% of the amount due prior to sale from the petitioner would be wholly unjustified. The proviso to Section 18 of the Act restricts the entertainment of the appeal unless the borrower deposits 50% of the amount of the debt claimed by the secured creditors. Once Rs. 17.75 crores have been received by the secured creditors, that is more than 50% of the debt due from the petitioners, the purpose of the proviso stands satisfied. Consequently, we set aside the orders dated 30.4.2012 and 13.7.2012 passed by the Tribunal and direct the Tribunal to decide the appeal on merits.

Disposed of.