

Appeal Dy. No. 428/2019
Date: 19.12.2019

M/s Maa Poornagiri Sheetgrah Pvt. Ltd.
& Ors. Vs. Bank of India & Anr.

Present: Shri V. D. Chauhan, counsel
for the appellants,
Shri Anup Shukla, counsel for the
respondent-Bank,

Learned counsel for the appellants files
affidavit of service.

Learned counsel for the appellants
submits that out of seven properties,
the Bank has sold two properties and
realized more than Rs. 70.00 lacs as
against the auction sale notice for
Rs. 118.00 lacs and odd. However, the
appellants have further deposited
Rs. 60.00 lacs as pre-deposit before the
Registrar, therefore, the requirement of
pre-deposit is satisfied.

Since in auction sale notice, the
outstanding amount has shown as Rs.
118.00 lacs and against that a sum of
Rs. 60.00 lacs has been deposited.
Therefore, more than 50% amount has
been deposited by the appellants as
pre-deposit. So, the appeal is
entertainable.

The drafts deposited for pre-deposit be kept in the shape of FDR for a period of six months in auto renewal mode in the Nationalized Bank.

Learned counsel for the appellants submits that out of seven properties, the possession of two properties, which were sold, has been taken by the Bank, but the remaining properties are within the possession of the appellants and the Bank is pressing hard to take the possession under the garb of the DM's order, whereas the order of the D.M. was passed without providing opportunity of hearing to the appellants. Therefore, the respondent-Bank be restrained from taking possession till next date.

It was opposed by the counsel for the respondent-Bank, contending that the opportunity for filing the reply be provided and there is no urgency for granting any interim relief.

Considered the arguments and perused the record.

Prima facie, there is substance in the submission of the learned counsel for the appellants. The substantial question

as to whether the opportunity for hearing was not given by the District Magistrate, is to be considered in the appeal. The appellants have shown their bonafide by depositing Rs. 60.00 lacs before this Tribunal. No prejudice would be caused if status quo be ordered till next date. Therefore, considering the facts and circumstances of the case, the parties are directed to maintain the status quo qua the remaining five properties till next date.

The reply may be filed within 15 days with the copy to the counsel for the appellants.

List this case on 02.01.2020 for filing reply.

R. S. KULHARI
CHAIRPERSON

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