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No Shield of Rule 9(5) When Bank Suppresses Court Order: Telangana HC Refunds ?2.16 Crore to Auction Purchaser

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In a ruling highlighting the principles of transparency and fairness in bank auctions under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act), the Telangana High Court has quashed the forfeiture of deposits made by an auction purchaser in good faith. The case revolved around the failure of the Union Bank of India to disclose a material court order restraining the confirmation of sale. The judgment set aside the forfeiture and highlighted the bank's lack of probity and unjust enrichment in dealing with both the auction purchaser and the guarantor.

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Background of the Case

The petitioner, an auction purchaser, participated in an auction conducted by the Union Bank of India on 14th March 2023 for a secured asset. He emerged as the highest bidder (H1) with a bid of ?8.65 crore and deposited 25% of the sale consideration, amounting to ?2.16 crore, on 15th March 2023. The sale was explicitly stated to be subject to the outcome of a pending proceeding, S.A. No. 58 of 2023, before the Debts Recovery Tribunal (DRT) in Hyderabad. However, unknown to the petitioner at the time of deposit, the guarantor of the property had already moved the High Court in W.P. No. 7533 of 2023, challenging the auction. On 20th March 2023, a coordinate bench of the High Court restrained the bank from confirming the sale in favour of the auction purchaser.

Despite this judicial restraint, the bank neither communicated the court order to the petitioner nor halted its demand for the remaining 75% of the bid amount. Instead, it extended the payment deadline and eventually issued a letter on 13th June 2023 forfeiting the petitioner's deposit, citing failure to pay the balance within the stipulated time. Aggrieved, the petitioner filed the present writ petition on 1st May 2025, seeking either a direction to the bank to accept the balance payment and execute a sale certificate or a full refund of the forfeited amount.

Rival Contentions

The petitioner argued that the bank had acted in bad faith by withholding the crucial information about the High Court's restraint order. It was contended that this non-disclosure vitiated the entire process and rendered the forfeiture under Rule 9(5) of the Security Interest (Enforcement) Rules, 2002, legally untenable. The petitioner also emphasized that he had requested updates from the bank and even sought a refund or extension, but received no clear response regarding the legal impediments.

The bank, on the other hand, defended its actions by asserting that there was no formal stay on the auction proceedings and that the petitioner was aware of the pending DRT case. It maintained that the forfeiture was valid under Rule 9(5), which allows a secured creditor to forfeit the deposit if the balance payment is not made within the prescribed period. The bank also argued that the petitioner had an alternative remedy under the SARFAESI Act and that the writ petition was not maintainable.

The guarantor supported the bank's stance, arguing that the petitioner had taken a calculated risk despite knowing about the ongoing litigation. It was further submitted that the writ court could not examine disputed questions of fact, which were more appropriately suited for a civil trial.

Issues and Legal Analysis

The court framed the central issue as whether the bank was under a duty to disclose the High Court's restraint order and whether its failure to do so invalidated the forfeiture. The bench carefully examined the timeline of events and found that while the petitioner was informed about the DRT proceedings, he was never told about the High Court's specific order dated 20th March 2023, which directly impacted the auction.

The court held that Rule 9(5) of the 2002 Rules presumes a clean and transparent process on the part of the secured creditor. It cannot be invoked as a shield when the bank itself is guilty of suppressing material facts. The court also observed that the bank's

conduct amounted to unjust enrichment, as it was simultaneously demanding payment from the petitioner and receiving deposits from the guarantor in the DRT proceedings.

In determining the maintainability of the writ petition, the court held that the breach of natural justice and deliberate non-disclosure of a judicial order constituted exceptional circumstances warranting writ jurisdiction, despite the existence of an alternative remedy.

Reliance on Precedents

The court drew support from several judicial precedents. In Mohd. Shariq v. Punjab National Bank, the Supreme Court had ordered a refund where the auction purchaser was not informed of material DRT proceedings. Similarly, in Mandava Krishna Chaitanya v. UCO Bank and Lincoln Education Academy v. Union Bank of India, the courts emphasized the bank's duty to ensure due diligence and transparency. The court distinguished C. Natarajan v. SBI and Agarwal Tracom v. PNB on facts, noting that in those cases, the banks had not suppressed any court orders.

Final Decision

The Telangana High Court allowed the writ petition in part. It directed the Union Bank of India to refund the ?2.16 crore deposited by the petitioner within four weeks. However, it declined to issue a direction for accepting the balance payment or executing a sale certificate, given the ongoing litigation and the legal complexities surrounding the property. All interim orders were vacated.

Concluding Paragraph

This judgment is a stern reminder to financial institutions that their powers under the SARFAESI Act must be exercised with transparency and fairness. The court's refusal to allow the bank to benefit from its own omission reinforces the principle that statutory rigor cannot override constitutional justice. By protecting the auction purchaser from forfeiture under dubious circumstances, the Telangana High Court has reaffirmed the judiciary's role in safeguarding equitable conduct in commercial transactions.

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