**The State bank of India has the statutory authority to forfeit the amount upon nonpayment of bidding money but it cannot exceed its limit and terms and conditions of the auction. High court of Karnataka: Partly allowed the complaint against State Bank of India.**

**Title: Sri Kalyana Murty K v State Bank of India**

**Citation: WP No. 23327 of 2022**

**Decided on: 19.10.2023**

**Coram: Justice K.V Arvind**

**Introduction**

The Karnataka High Court allowed in part the writ petition filed by the petitioner and granted relief for specific aspect of the claim. Justice K.V Arvind while delivering his judgement considering various precedents similar in nature came to the verdict that the State Bank of India must refund a sum amount of Rs. 10 Lacks along with applicable interest to the petitioner indicating a corrective action to rectify the perceived error in the forfeiture decision.

 **Facts of the case**

A writ petition was filed under article 226 and 227 of constitution of India seeking a writ of mandamus to direct the respondents- State Bank of India to consider the requisition of the petitioner and refund Sri Kalyana Murty of the payment forfeited.

The petitioner emerged as a successful bidder in an auction for the sale of property with the highest bid of Rs. 86,95,000. However, the petitioner could only manage to pay 25% of bid amount as per auction terms and failed to deposit the remaining 75% within the stipulated time. He obtained extensions sighting the reasons of Covid-19 and the financial instability which was followed by health issues. the respondent extended the deadline for payment twice but eventually forfeited 31,73,750 for non-compliance. The petitioner argued that the forfeiture unfair enrichment as the property was resoled at a higher price.

**Court’s observation and analysis**

The court reviewed Rule 9 of the Security Interest (Enforcement) Rules, 2022, which governs the sale of secured assists through auction. The court also observed that the respondent’s had the statutory authority to forfeit the amount and the petitioner’s health conditions and other reasons would not justify the same.

However, the court recognized that the forfeiture amount must only be up to 25% of the bid amount as per the auction terms and conditions and the additional amount paid by the petitioner, Rs. 10 Lack was directed to be refunded considering any retention beyond 25%of the actual amount is unjust and unfair enrichment. Having allowed this petition in part the court also held that the applicable interest from the date of payment till refund, expeditiously not later than eight weeks from the date of receipt of the order must be paid by the respondents.

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