

IN THE DEBTS RECOVERY TRIBUNAL, AURANGABAD
(BEFORE HON'BLE RECOVERY OFFICER-I, DRT AT AURANGABAD)

ORDER SHEET

Date: - 13/03/2024

Sr. No. 1

RC No. 38/2005

Classifi- cation	No. of Exh.	Kotak Mahindra Bank	Certificate Holder
		Versus	
		M/s Vizar & Others	Certificate Debtors
		<p>Mr. S.R. Deshpande, Advocate for Certificate Holder Bank present through Video Conference.</p> <p>Mr. T. R. Daware, Advocate for Certificate Debtor No. 2 B present.</p> <p>In the execution of recovery certificate, this forum has issued e-auction notice for sale of mortgaged properties, against this notice Certificate Debtor No. 2B has filed Interim application at Exh.243 and prayed, recall the sale notice dated 15.02.2004 to the extent of properties at Lot No.2 and 3 of said auction notice, order or direction, the Certificate Debtor No.2B may kindly be permitted to deposit the Reserve Price of property at Sr. No.2 as Rs.18,03,000/- and the Reserve Price of Property at Sr. No.3 as Rs.12,15,000/- and the said properties may kindly be released from the charge and pending hearing and final disposal of the present objection, the execution, implementation and the operation of the sale notice dated 12.02.2024 may kindly be stayed. CD no.2B further submits that he is ready and willing to exercise the right of redemption as contemplated U/s 60 of the Transfer of the Property Act 1882, and is ready to deposit the Reserve Price as drawn by the Hon'ble Authority in the e-auction notice in respect of the properties at Sr. No.2 and 3 immediately.</p> <p>Today one more objection at Exh.245 has been filed by Certificate Debtor No.2B and prayed for stay of auction notice till the disposal of aforesaid IA at Exh243. CD No.2B further submits that on 05.03.2024 the said matter was listed for hearing, however the Certificate Holder bank and their advocate during the course of argument resist the said application therefore the present CD is filing this objection to the sale notice, so as to bring certain factual aspects to the kind notice of the Hon'ble Authority.</p> <p>CD No. 2B submits that, in the present Recovery Proceeding certain round of mediation were completed and in the said mediation proceeding the CH Bank has accepted the offer of the some of the CDs and accordingly settled their matter and release their properties from the charge, thus present CD being the legal heir of guarantor is praying for the very same relief and ready to settled the matter to his extend at Reserve Price, however it appears from the conduct of the</p>	

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CH Bank that, they are opposing the very same concession which was granted to the other CDs, therefor it is necessary in the interest of justice, the sale proclamation dated 15.02.2024 is requires to be cancelled/Recall.

Advocate for Certificate Holder Bank has filed say at Exh.244 and vehemently opposing the IA and prayed for rejection of IA.

Advocate for Certificate Holder Bank further requested to dispose of the IA finally and say filed by CH may be treated as a written argument also.

Advocate for Certificate Debtor No.2B has requested for granting stay on auction of properties at Sr. 2&3 and sought adjournment for filing rejoinder and argument.

In view of the facts and records, it is observed that the Certificate Holder Bank have settled the dues with other Certificate Debtors and release the properties against the deposit of OTS amount. In this matter Certificate Debtor No.2B is ready to deposit the amount as per Reserve Price as drawn by this Forum in the e-auction notice in respect of the properties at Sr. No.2 and 3 and for showing bonafide he has filed photocopies of Demand Drafts for Rs.18,03,000/- and Rs.12,15,000/- with the IA.

In view of the facts objection Application at Exh245 filed by Certificate Debtor No.2B deserves to be allowed. Hence, I passed the following direction.

Direction:

1. Interim Application Exh. No.245 is allowed.
2. The e-auction sale which is scheduled on 21st March, 2024 to the extent of Lot No. 2 & 3 stands stayed till further order.
3. Certificate Holder Bank is directed to inform the same to e-auction agency to remove the properties Lot No. 2 & 3 as per e-auction sale notice dated 12th February, 2024 from the e-auction platform immediately.

List the matter on 15th March, 2024.

(Pavan Kumar Singh)
I/c. Recovery Officer-I,
Debts Recovery Tribunal, Aurangabad.