

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). 2682/2022

PUNJAB NATIONAL BANK

APPELLANT(S)

VERSUS

AMRIT HATCHERIES PRIVATE LIMITED & ORS.

RESPONDENT(S)

O R D E R

The question which falls for determination in this appeal is as to whether certain immovable property in respect of which auction sale was conducted by the appellant bank in pursuance of the provisions of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter called "the SARFAESI") can be carved out of the moratorium asset(s) as contemplated under Section 14 of the Insolvency and Bankruptcy Code, 2016 ("2016 Code") or not. The defaulting borrower in this case is a corporate entity, Amrit Hatcheries Pvt. Ltd. Proceedings under the SARFAESI Act was initiated on 19.07.2017 and so far as the subject-property (located in the district of Bankura, West Bengal) is concerned, auction sale notice was issued on 27.07.2019 and auction sale was conducted on 17.08.2019. The Bank's case is that sale stood confirmed on 19.08.2019. It was on 20.08.2019, however, proceeding under the 2016 Code was

commenced at the instance of an operational creditor and the petition under Section 9 thereof was admitted. Moratorium was also declared on that date.

Heard learned senior counsel/counsel appearing for the Bank, Union of India, the official liquidator appointed under the 2016 Code, a suspended director of the defaulting borrower and the person whose bid in the SARFAESI auction was accepted.

So far as the present appeal is concerned, the order for moratorium under Section 14 of the 2016 Code was passed on 20.08.2019, whereas the full payment as per SARFAESI auction sale certificate was issued in favour of the auction purchaser by the appellant bank on 03.09.2019, after declaration of moratorium. Thereafter, in pursuance of an order of the NCLT passed on 25.02.2020, and subsequently upheld by the National Company Law Appellate Tribunal, Principal Bench, New Delhi in the impugned order, the successful bidder(s) has handed over the property to the liquidator. In such circumstances, we are not inclined to interfere with the impugned order. We have taken note of the different authorities cited by the learned counsel for the parties but we do not consider it necessary to deal with them individually as we have decided this case primarily on its own factual context. We direct the appellant bank to refund the amount along with accrued interest, if any, to the respondent bidder, who was found to be successful, within a period of six weeks from today.

The present appeal is, accordingly, dismissed.

Pending application(s), if any, shall stand disposed
of.

.....J.
[ANIRUDDHA BOSE]

.....J.
[VIKRAM NATH]

New Delhi;
March 22, 2024.

ITEM NO.301

COURT NO.5

SECTION XVII

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

CIVIL APPEAL NO(S). 2682/2022

PUNJAB NATIONAL BANK

APPELLANT(S)

VERSUS

AMRIT HATCHERIES PRIVATE LIMITED & ORS.

RESPONDENT(S)

(IA FOR STAY APPLICATION ON IA 50059/2022 FOR EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT ON IA 50060/2022 FOR PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES ON IA 177851/2022 FOR VACATING STAY ON IA 177858/2022 FOR APPROPRIATE ORDERS/DIRECTIONS ON IA 177862/2022)

Date : 22-03-2024 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ANIRUDDHA BOSE
HON'BLE MR. JUSTICE VIKRAM NATH

For Appellant(s) Mr. Dhruv Mehta, Sr. Adv.
Mr. Ankur Mittal, AOR
Ms. Nidhi Mittal, Adv.
Mr. Sanjivan Chakraborty, Adv.

For Respondent(s) Mr. Rohit Amit Sthalekar, AOR

Mr. Anand Varma, AOR
Ms. Adyasha Nanda, Adv.
Mr. Ayush Gupta, Adv.

Mr. Rohit Anil Rathi, AOR
Mr. Yashas Rk, Adv.

Mr. Abhishek Singh, Adv.
Mr. Elvin Joshy, Adv.
Mr. Anuj Kapoor, AOR
Mr. J. Amal Anand, Adv.
Mr. Shashwat Tyagi, Adv.
Ms. Alisha Sharma, Adv.

Mr. K.M Nataraj, A.S.G.(NP)
Mr. Shailesh Madiyal, Sr.Adv.
Mr. Amrish Kumar, AORs
Mrs. Priyanka Das, Adv.

Mr. Aniruddh Sharma Ii, Adv.
Mr. Anirudh Bhatt, Adv.
Mr. Ishaan Sharma, Adv.

UPON hearing the counsel the Court made the following
O R D E R

The present appeal is dismissed in terms of the signed order,
which is placed on the file.

Pending application(s), if any, shall stand disposed of.

(NIRMALA NEGI)
COURT MASTER (SH)

(VIDYA NEGI)
ASSISTANT REGISTRAR