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ITEM NO.56

COURT NO.3

SECTION X

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

I.A. No. 3/2012 in WRIT PETITION (CIVIL) NO(s). 251 OF 2011

BHAVESH GUNVANTAL SHAH Petitioner(s)

VERSUS

UNION OF INDIA & ANR. Respondent(s)

(for vacating interim order and office report )

Date: 08/08/2013 This IA was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.M. LODHA

HON'BLE MR. JUSTICE MADAN B. LOKUR

For Petitioner(s) Mr. Mathews J. Nedumpara, Adv.  
Ms. Rohini, Adv.  
Mr. K. Lingaraja, Adv.  
Mr. Anil Kumar, Adv.

For Respondent(s) Ms. Ranjana Narayan, Adv.  
Ms. Seema Rao, Adv.  
Ms. Sushma Suri, Adv.  
Mr. Shreekant N. Terdal, Adv.

Ms. Asha Gopalan Nair ,Adv (not present)

Mr. Gaurav Agarwal, Adv.  
Ms. Prerna Mehta ,Adv

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

On 04.07.2011 while issuing notice, this Court directed by an interim order that in the meantime, the auction may be held, but the same is not to be finalised until further orders of this Court.

By this application (Interlocutory Application No. 3 of 2012) respondent No. 2 - Shamrao Vitthal Co-operative Bank Ltd. (for short, 'Bank') has prayed for vacation of the interim order dated July 4, 2011. It is stated in the application that petitioner has entered into consent terms with the Bank on August 25, 2011. Under the consent terms, the petitioner has undertaken to withdraw two Writ Petitions being Writ Petition (Civil) No. 251 of 2011 and Writ Petition (Civil) No. 252 of 2011 filed before this Court within one week from the signing of the consent terms. Despite that undertaking, the present Writ Petition (Civil) No. 251 of 2011 has not been withdrawn.

The application is seriously opposed by the petitioner. The petitioner has filed a counter affidavit in opposition to this application wherein diverse pleas have been set up in challenging the legality and correctness of the consent terms dated August 25, 2011.

Learned counsel for the petitioner submits that petitioner has filed a review petition (Review Petition No. 4 of 2011) before the Debt Recovery Tribunal-III, Mumbai. He further submits that in various writ petitions this Court has passed interim orders

restraining Co-operative Banks from taking any action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act).

Having heard learned counsel for the parties at quite some length, we are satisfied that the interim order passed by this Court on July 4, 2011 deserves to be vacated. We order accordingly.

It is, however, made clear that in auction notice as well as at the time of finalisation of auction, the auction purchaser will be informed that the matter is sub judice before the Supreme Court.

We did not consider it fit to go into the question of legality and correctness of the consent terms since the application for review made by the petitioner is pending before the concerned Debt Recovery Tribunal.

We observe that the concerned Debt Recovery Tribunal shall hear and decide the review application filed by the petitioner expeditiously and in no case later than three months from today uninfluenced by the present order.

Interlocutory Application No. 3 of 2012 is allowed as above.

|(Rajesh Dham)  
|Court Master

|(Renu Diwan)  
|Court Master

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