

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH**

* * * *

WRIT PETITION No.23066 OF 2015

Between:

Dr. Buggaveeti Rahul.

.. Petitioner

And

State Bank of India,
Stressed Assets Recovery Branch (SARB),
2nd Floor, Lata Complex, Opp: Intermediate Board,
Nampally, Hyderabad,
and others.

.. Respondents

DATE OF JUDGMENT PRONOUNCED: 27-07-2015

SUBMITTED FOR APPROVAL:

HON'BLE SRI JUSTICE R.SUBHASH REDDY

AND

HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

1. Whether Reporters of Local newspapers Yes/No
may be allowed to see the Judgment?

2. Whether the copies of judgment may be Yes/No
marked to Law Reporters/Journals

3. Whether Their Lordship wish to
see the fair copy of the Judgment? Yes/No

HON'BLE SRI JUSTICE R.SUBHASH REDDY

AND

HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

WRIT PETITION No.23066 of 2015

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ORDER : *(Per Hon'ble Sri Justice R.Subhash Reddy)*

In this writ petition, the petitioner, who is an auction purchaser of the secured asset sold in the auction by the Authorised Officer of the respondent Bank on 14.03.2015 in exercise of powers conferred under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the Securitization Act'), is mainly aggrieved by the order of *status quo* passed by the Debts Recovery Tribunal, Hyderabad on 01.05.2015 in S.A.No.284 of 2012.

Respondent Nos.3 to 8 have availed loan facilities from respondent Nos.1 and 2. As they committed default, the respondents 1 and 2 have initiated proceedings under the Securitization Act and secured asset was sold in auction. When steps were taken under the Securitization Act, the respondents 3 to 8 have challenged the same by filing an application under Section 17 of the Securitization Act before the Debts Recovery Tribunal, Hyderabad (for short 'the Tribunal') and the same was numbered as S.A.No.284 of 2012. By order dated 07.04.2015, the Tribunal has passed the following order :

“.... As regards the stay petition is concerned, in view of the foregoing and also by keeping in view of the conduct of the Applicants in dragging on the matter for the past three years, this Tribunal is not inclined to grant any stay as sought by the Applicants. Even if the Respondent Bank issues the Sale Certificate and deliver the physical possession of the schedule property in favour of the Auction Purchaser, this Tribunal can always set-aside the said sale and restore the physical possession of the property to the Applicants, if it is proved that the Respondent Bank has committed any irregularity or violation of the provisions of the SARFAESI Act and the Rules, 2002 while proceeding against the schedule property. Hence, the auction sale of the schedule property conducted by the Respondent Bank shall be subject to the result of the above SA. Accordingly, the following orders are

passed:-

IA.No.1250/2015 is allowed by permitting the Applicants to carryout amendment to the above SA within 15 days from today before the Registrar and file a neat copy of the above SA by serving an advance copy on the Respondent Bank.

IA.No.1260/2015 is dismissed. However, the auction sale of the schedule property conducted by the Respondent Bank shall be subject to the result of the above SA.”

After the secured asset was sold in the auction conducted on 14.03.2015, the petitioner-auction purchaser was impleaded as respondent No.3 in the said S.A. by order dated 28.04.2015. Thereafter when the said S.A was listed on 30.04.2015, it was adjourned to 21.05.2015.

In this writ petition, it is the grievance of the petitioner that when the borrowers have filed advancement petition in I.A.No.2020 of 2015 on 01.05.2015, the Tribunal, without notice to the petitioner, passed an order of *status quo* on the same day and adjourned the matter to 21.05.2015. It is stated now that the case is adjourned to 20.08.2015.

According to the petitioner, the secured asset sold in the auction is an open plot, but the same is disputed by the borrowers stating that it is a plot with structures existing on it and that though the value of the subject property was more than 4.00 crores, it is undervalued and sold for Rs.2,29,50,000/-.

When the said S.A filed by the borrowers is pending consideration, the contentions of both parties are to be dealt with by the Tribunal as per the provisions under Section 17 of the Securitization Act. It is true that by order dated 07.04.2015, the

Tribunal, while refusing to grant stay as sought by the borrowers, observed that subsequent proceedings would be subject to the result of the S.A., but after impleadment of the petitioner-auction purchaser as respondent No.3 in the S.A., on filing an advancement petition in I.A.No.2020 of 2015 by the borrowers, the matter was advanced and an order of *status quo* was passed on 01.05.2015. Though it is stated by the petitioner that the Tribunal could not have passed an order of *status quo* without notice to him, in view of the pendency of the S.A and further taking into account that the petitioner-auction purchaser has paid the total sale consideration of Rs.2,29,50,000/-, we deem it appropriate to dispose of the writ petition with a direction to the Tribunal to dispose of the S.A itself within a period of two months from the date of receipt of this order, after hearing all the parties, and till such disposal, the order of *status quo* passed by it on 01.05.2015 shall continue to operate.

With the above direction, the Writ Petition is disposed of.

As a sequel, pending miscellaneous petitions, if any, shall stand closed. No order as to costs.

JUSTICE R. SUBHASH REDDY

JUSTICE A.SHANKAR NARAYANA

27.07.2015

v v

