

**THE HON'BLE SRI JUSTICE RAMESH
RANGANATHAN**

And

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTI

WRIT PETITION No.1486 of 2015

ORDER: (per Hon'ble Sri Justice Ramesh Ranganathan)

Aggrieved by the auction-cum-sale notice dated 29.12.2014, a copy of which is stated to have been affixed over the subject property only on 08.01.2015, the petitioner invoked the jurisdiction of the Debt Recovery Tribunal under Section 17 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 on 12.01.2015.

Sri V.Hariharan, learned counsel for the petitioner, would submit that the Presiding Officer issued urgent notice and posted the matter to 27.01.2015 as the auction was proposed to be held on 31.01.2015; the Presiding Officer is on leave from 27.01.2015 till 04.02.2015; and, even though the application filed by the petitioner is pending consideration, the auction is scheduled to be held tomorrow i.e., 31.01.2015. Learned counsel has also put forth his submissions on merits in support of his contention that the auction notice is illegal.

As the petitioner has already elected to invoke the jurisdiction of the Debt Recovery Tribunal, it would be wholly inappropriate for this Court to, simultaneously, examine the contentions urged on merits.

The only ground on which the petitioner has invoked the jurisdiction of this Court is that the Presiding Officer is on leave. Sri V.Hariharan, learned counsel would submit that conducting of auction would only result in multiplicity of proceedings. As the auction, scheduled to be held on 31.01.2015, is required to be confirmed and the Debt Recovery Tribunal is stated to commence functioning from 04.02.2015, no prejudice would be caused to the petitioner merely because an auction is held for, if the

auction notice were to be set aside later, then no further proceedings can be taken by the 2nd respondent to confirm the sale.

On the other hand, if the auction scheduled to be held on 31.01.2015 is interdicted, and the application filed by the petitioner were to be dismissed later by the Debt Recovery Tribunal, prejudice would be caused to the Bank in having to incur needless expenditure to issue a notification afresh for conducting an auction. As the petitioner is not being dispossessed nor he is said to have suffered any prejudice merely on account of the fact that the auction is scheduled to be held on 31.01.2015, we see no reason to interdict the auction. The sale, pursuant thereto, shall however not be confirmed till 05.02.2015. It is made clear that the Debt Recovery Tribunal shall consider the petitioner's application on its own merits uninfluenced by any observations made in this order.

The writ petition is disposed of accordingly.

Miscellaneous petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

RAMESH RANGANATHAN, J

M.SATYANARAYANA MURTHY, J

30th January 2015.
JSU

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

And

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

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WRIT PETITION No.1486 of 2015

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Date: 30.01.2015

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