

**HON'BLE SRI JUSTICE R. SUBHASH REDDY
AND
HON'BLE SRI JUSTICE A. SHANKAR
NARAYANA**

WRIT PETITION No.25771 OF 2015

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

In this Writ Petition, the petitioner has challenged the orders, dated 30-07-2015, in I.A. Nos.580 and 581 of 2015 in S.A. No.69 of 2015 passed by the learned Debts Recovery Tribunal, Andhra Pradesh at Visakhapatnam (for short 'Tribunal').

2. Petitioner No.1 and his wife late Smt. Veera Bai, who are guarantors, have mortgaged their properties for the loan granted in favour of respondent No.2 - M/s. Sree Giritej Iron & Steel Private Limited by respondent No.1 - Andhra Bank, Visakhapatnam. The Director of respondent No.2 is petitioner No.1 himself. Since wife of petitioner No.1 died, petitioner Nos.2 and 3, who are their sons, are brought on record as her legal representatives.

3. When respondent No.2 defaulted in repayment of the loan amount, its account was declared as Non-Performance Account and respondent Nos.1 and 3 have taken up proceedings under the Securitization and

Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act).

Notice under Section 13 (2) of the SARFAESI Act was issued and the same was challenged by the petitioners, who are guarantors and owners of the secured asset, by way of S.A. No.69 of 2015 before the Tribunal. Pending securitization application, conditional interim order was passed by the Tribunal, but, as the same was not complied with by the petitioners, respondent Nos.1 and 3 are proceeding for auction of the secured asset. After issuance of the sale notice, the petitioners have filed

I.A. No.580 of 2015 seeking amendment of the prayer to question the e-auction notice, dated 03-07-2015, and also filed I.A. No.581 of 2015 seeking to stay all further proceedings pursuant to the e-auction notice. The Tribunal rejected those petitions.

Assailing the same, this writ petition is filed by the petitioners.

4. Heard Sri R. Raghunandan, learned senior counsel appearing for the petitioners, and Sri M. Narender Reddy, learned senior counsel appearing for respondent Nos.1 and 3 - Andhra Bank, and perused the material on record.

5. Although it is contended by Sri R. Raghunandan, learned senior counsel appearing for the petitioners, that various irregularities have taken place in conducting e-auction; in view of the pendency of S.A. No.69 of 2015, we are not inclined to go into merits of the same.

6. As much as the e-auction notice was issued during the pendency of S.A. No.69 of 2015 before the Tribunal, we are of the view that there is no reason to reject I.A. No.580 of 2015, in which, the petitioners sought for amendment of the prayer in the above S.A., to question the e-auction notice, dated 03-07-2015, and the subsequent steps taken by respondent Nos.1 and 3.

7. In that view of the matter, we set aside the order, dated 30-07-2015, in I.A. No.580 of 2015, passed by the Tribunal and direct the Tribunal to permit the petitioners to carry out the amendments, as prayed for in I.A. No.580 of 2015, and to dispose of S.A. No.69 of 2015 as expeditiously as possible, preferably within a period of two (02) months from the date of receipt of a copy of this order. Further, the respondents are directed to maintain *status quo* as on today in all respects till disposal of the S.A. It is open to the petitioners to file additional documents, if any, along

with a copy of this order.

8. Accordingly, the Writ Petition is allowed in part to the extent indicated above. There shall be no order as to costs.

9. As a sequel thereto, Miscellaneous Petitions, if any, pending in the writ petition stand disposed of.

R. SUBHASH
REDDY, J

A. SHANKAR NARAYANA, J

September 1, 2015.

NOTE:

- 1. Dispatch the order within two (2) days.**
- 2. Mark a copy of the order to the Tribunal concerned.**

(BO)
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