

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

WRIT PETITION No.27525 OF 2015

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

Heard Sri P. Nagendra Reddy, learned counsel for the petitioners, and Sri K. Viswanatha Reddy, learned counsel for the respondent - State Bank of India, Adoni, Kurnool District.

2. In this writ petition, the petitioners have questioned the order, dated 13-02-2015, in Criminal M.P. No.17 of 2015, passed by the learned Chief Judicial Magistrate - cum - Principal Assistant Sessions Judge, Kurnool.

3. The order impugned is passed in exercise of Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interests Act, 2002 (for short 'SARFAESI Act').

4. The petitioners have availed certain loan facilities from the respondent and defaulted in repayment, as such, their loan account was declared as Non-Performance Account (NPA) and possession

notices were issued under Rule 8 (1) and (2) of the Security Interest (Enforcement) Rules 2002, framed under the SARFAESI Act.

5. It is stated that though interlocutory application is filed seeking stay, the same is not considered and is pending.

The grievance of the petitioners is that though S.A. No.36 of 2015 filed by the petitioners is pending for consideration, pursuant to the order impugned, the petitioners are set to dispossession from the secured asset.

6. It is submitted that as much as there is no Presiding Officer in the Debts Recovery Tribunal (DRT) at Hyderabad, there is imminent threat of petitioners' dispossession before their application is taken up for disposal by the In-charge Officer.

It is also submitted by the learned counsel for the petitioners that the claim of the petitioners for one-time settlement is unduly rejected.

7. On the other hand, it is submitted by the learned counsel for the respondent that earlier also, the petitioners have approached this Court by way of W.P. No.39481 of 2014 seeking directions for one-time settlement and this Court, by order, dated 22-02-2015,

disposed of the writ petition permitting the petitioners to make a comprehensive offer, and, despite the same, the petitioners have not come up with any such offer. It is further submitted that W.P. No.37213 of 2014 filed by the petitioners was also dismissed by a Division Bench of this Court on the ground of alternative remedy being available under Section 17 of the SARFAESI Act.

8. As much as the securitization application filed by the petitioners is pending for consideration, it is not desirable to go into the merits of the case, at this stage. However, since it is submitted that there is no regular officer for the DRT, Hyderabad and In-charge Officer is taking up the matters only for some days in a month and taking the total amount due into consideration,

we deem it appropriate to dispose of the matter directing the respondent not to take any steps pursuant to the order impugned, on condition that the petitioners shall deposit an amount of Rs.25,00,000/- (Rupees twenty five lakhs only) within a period of four (4) weeks from today. It is made clear that if the petitioners fail to deposit the amount, it is open to the respondent to take further steps in accordance with law to realize the loan amount from the petitioners. Further, the Tribunal is directed to dispose of the securitization application as

expeditiously as possible, preferably within a period of three (3) months from today.

9. With the directions as above, the Writ Petition is disposed of. There shall be no order as to costs.

10. 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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