

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

WRIT PETITION No.15312 of 2015

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

This writ petition is filed by the petitioners seeking *Mandamus* declaring the action of respondent Nos.2 and 3 in taking possession of the 1st petitioner-Company on 18.5.2015 pursuant to the orders passed by respondent No.4 in File No.DTCL-14024/68/2015-SUPDT (D) – WGO, dated 19.4.2015 and also the inventory notice issued under Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity “the SARFAESI Act”) and the Rules made thereunder, as arbitrary and illegal.

2. Heard learned counsel for the petitioners and the learned Standing Counsel for respondent Nos.2 and 3-Bank.

3. A perusal of the possession orders issued under Section 14 of the SARFAESI Act would indicate that the balance outstanding amount due by the petitioners as on 23.7.2014 was Rs.2,70,00,821/-. Mainly, it is the case of the petitioners that though they have made an application to settle the loan amount under One-time Settlement Scheme (OTS), the same is not being considered and the respondents are proceeding to initiate proceedings under the provisions of the SARFAESI Act.

4. On the other hand, learned Standing Counsel for respondent Nos.2 and 3-Bank submits that as of now, the outstanding amount due by the petitioners is Rs.3.11 Crores and the value of the secured

assets is about Rs.4.00 Crores, as such, the petitioners are not entitled for settlement under One-time Settlement Scheme (OTS), as a matter of right. It is further submitted that as of now, even if the claim is to be settled, it can be done upto Rs.2.90 Crores only, but not beyond that.

5. It is to be seen that after taking possession, no further steps are taken by the respondents-Bank for sale of the secured assets. As the petitioners have expressed their ability and willingness to pay Rs.2.00 Crores before their case is considered for settlement under OTS Scheme, we deem it appropriate to dispose of the writ petition permitting the petitioners to deposit Rs.2.00 Crores (Rupees two crores only) within a period of six weeks from today. On such deposit, if the petitioners make any application for settlement under OTS Scheme, the respondents-Bank shall consider their claim in accordance with the policy of the Bank. On such deposit and if an application is made within the stipulated period, no further steps shall be taken to sell the secured assets, which were taken possession by the respondents-Bank, till disposal of such application. It is open for the respondents-Bank to take further steps after a decision is taken on the application being filed by the petitioners.

6. Subject to the above directions, this writ petition is disposed of, at the admission stage. As a sequel, miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

JUSTICE R. SUBHASH REDDY

JUSTICE A.SHANKAR NARAYANA

08.06.2015.

Msr

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