

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

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WRIT PETITION No.31749 of 2015

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

This writ petition is filed seeking a direction by way of Mandamus to declare the action of the respondent in claiming an amount of Rs.3,12,73,406/- against cash credit account No.30229876190 of the respondent Bank as illegal and arbitrary.

The petitioner, who is a Proprietor of the proprietary concern namely Wholesale Trading of Iron Gudders, has availed cash credit facility from the respondent-Bank by depositing title deeds of the subject property in favour of the respondent Bank. Initially the cash credit facility was limited for an amount of Rs.200.00 lakhs and subsequently the same was enhanced to Rs.300.00 lakhs. When the petitioner defaulted in repaying the cash credit availed by him, the respondent has initiated proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the Act') and issued demand notice under Section 13 (2) of the Act, demanding an amount of Rs.3,12,73,406/- due as on 28.04.2015. After issuing demand notice, further notice was issued. The respondent has also approached the Chief Judicial Magistrate-cum-Principal Assistant Sessions Judge, Anantapur, by filing Crl.M.P.No.192 of 2005, seeking assistance in taking physical possession of the subject property, and the same was allowed. Consequent thereto, an Advocate Commissioner was appointed, who issued notice to execute warrant on 30.09.2015.

This writ petition is filed mainly contending that though certain amounts were paid, the respondent is claiming exorbitant amount of Rs.3,12,73,406/- as the amount due in the account of the petitioner.

On the other hand, it is submitted by learned counsel for the respondent that the amount due from the petitioner is Rs.2,51,65,946/- as on 03.10.2015. Further it is submitted by learned counsel for the petitioner that during pendency of this writ petition, the petitioner has paid Rs.75,00,000/- on 06.10.2015 and the same is accepted by learned counsel for the respondent.

As much as the petitioner has not questioned the proceedings initiated under the Act and as it is stated that out of Rs.2,51,65,946/-, an amount of Rs.75,00,000/- is already paid by the petitioner, we deem it appropriate to dispose of the writ petition permitting the petitioner to pay the outstanding balance amount in two instalments of two months each i.e., half of the amount due shall be paid within a period of two months from today and the remaining half shall be paid within two months thereafter. Till such time, no further steps shall be taken to dispossess the petitioner from the mortgaged property. It is made clear that if the petitioner fails to pay the amount as directed above, it is open to the respondent to take further steps in accordance with law.

Subject to the above, the writ petition is disposed of. No order as to costs.

Miscellaneous Petitions, if any, pending shall stand closed.

JUSTICE R.SUBHASH REDDY

JUSTICE A.SHANKAR NARAYANA

07th October, 2015

