

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

WRIT PETITION No.38826 of 2015

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

This writ petition is filed by the petitioner questioning the order dated 20.11.2015 in S.A.No.507 of 2014 passed by the Debts Recovery Tribunal, Hyderabad, as arbitrary and illegal.

2. The petitioner has availed certain loan from the 1st respondent-Bank. As the petitioner has committed default in repayment of the same, the 1st respondent-Bank has initiated proceedings under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity "the SARFAESI Act"). As per the Possession Notice dated 05.10.2015 issued by the 1st respondent-Bank, the petitioner is due to pay an amount of Rs.10,64,000/- and interest thereon from 04.10.2015. Aggrieved by the same, the petitioner has approached the 2nd respondent-Debts Recovery Tribunal, Hyderabad, by way of filing S.A.No.507 of 2015. Out of the total due amount of Rs.10,64,000/-, as the petitioner was prepared to pay only Rs.1,00,000/-, the Tribunal has passed the impugned order dated 20.11.2015, permitting the 1st respondent-Bank to proceed with the sale, with a further direction not to confirm the sale, provided the petitioner deposits the entire amount within a period of two weeks or bring prospective buyer from the date of the said order. Aggrieved by the said order, the petitioner has filed the present writ petition.

3. Sri D. Raghavulu, learned counsel for the petitioner contends

that before issuing e-Auction Sale Notice, the 1st respondent-Bank has not followed the mandatory procedure prescribed under law and there was no affixture of sale notice and the sale notice was also not published in two Newspapers, including one in vernacular language Newspaper as required under law.

4. On the other hand, Sri Ambadipudi Satyanarayana, learned Standing Counsel for the 1st respondent-Bank sought to sustain the impugned order.

5. In view of the pendency of S.A.No.507 of 2014 before the Debts Recovery Tribunal, Hyderabad, there is no necessity to go into the merits of the case. As it is stated that the sale was held on 20.11.2015 and in view of the pendency of S.A.No.507 of 2014 before the Debts Recovery Tribunal, Hyderabad, we deem it appropriate to dispose of the writ petition directing the 1st respondent-Bank not to issue Sale Certificate to any third party-auction purchaser, provided the petitioner deposits a sum of Rs.5,00,000/- (Rupees five lakhs only) on or before 04.12.2015. It is made clear that if such amount is not deposited within the stipulated time, it is open to the 1st respondent-Bank to take further steps in accordance with law. The sale of the secured asset and deposit of the amount by the petitioner shall be subject to the further orders that would be passed in S.A.No.507 of 2014 by the Debts Recovery Tribunal, Hyderabad. The Tribunal shall dispose of S.A.No.507 of 2014 as expeditiously as possible, preferably within a period of two months from today.

6. As a sequel, miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

JUSTICE R. SUBHASH REDDY

JUSTICE A.SHANKAR NARAYANA

30.11.2015.

Msr

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