

**IN THE HIGH COURT OF JUDICATURE AT
HYDERABAD
FOR THE STATE OF TELANGANA AND
THE STATE OF ANDHRA PRADESH**

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W.P.No.23376 OF 2015

Between:

Sri Manjunath Handlooms and Saree Works and another
.. Petitioners

and

State Bank of Hyderabad and others

.. Respondents

DATE OF JUDGMENT PRONOUNCED: July 28,
2015

SUBMITTED FOR APPROVAL:

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

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| 1. Whether Reporters of Local newspapers
may be allowed to see the Judgments? | Yes/No |
| 2. Whether the copies of judgment may be | Yes/No |

marked to Law Reporters/Journals?

3. Whether their Ladyship/Lordship wish to see the fair copy of the Judgment? Yes/No

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

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WRIT PETITION No.23376 OF 2015

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

This Writ Petition is filed seeking to declare the e-auction notice, dated 15.05.2015, and the consequential notice, dated 10.07.2015, issued by the Branch Manager, State Bank of Hyderabad, as illegal and arbitrary.

Petitioners have availed loan facility from the respondent – Bank and defaulted in repaying the same. Therefore, the respondent - Bank has initiated proceedings under Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the Act'), and ultimately, by issuing e-auction notice, dated 15.05.2015, put the security interest created by the petitioners to auction on 16.06.2015. Respondent No.3, who participated in the said auction, having become the highest bidder, purchased the notified property for an amount of Rs.18.13 lakhs. Thereafter, after adjusting the sale proceeds to the

account of the petitioners, further notice, dated 10.07.2015, was issued demanding them to pay the balance amount of Rs.1,27,035/- due in their account.

It is the case of the petitioners that before putting the security interest to e-auction, respondent - Bank has not given any notice as contemplated under Section 13 (4) of the Act and as contemplated under Rule 8 (6) of the Security Interest (Enforcement) Rules, 2002.

Even according to the petitioners, auction was conducted on 16.06.2015 and respondent No.3 is the auction purchaser. If the petitioners are aggrieved by the e-auction notice, dated 15.05.2015, or the consequential notice, dated 10.07.2015, there is an effective alternative remedy available to them, by way of appeal, under Section 17 of the Act. By-passing such remedy, it is not open to the petitioners to approach this Court by filing the present Writ Petition, at this stage, merely because the auction is already completed.

In view of the alternative remedy available to the petitioners, we deem it appropriate to dispose of the Writ Petition granting liberty to the petitioners to avail the alternative remedy of appeal available under Section 17 of

the Act. Further, as it is submitted that no Sale Certificate is issued as yet, we direct the respondents to maintain *status quo* for a period of one week from today and in the meantime, the petitioners shall approach the authority concerned and obtain appropriate orders.

Subject to the above, the Writ Petition is disposed of. Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed. No costs.

R. SUBHASH

REDDY, J

A. SHANKAR

NARAYANA, J

July 28, 2015

Note: Issue C.C. in two days.
B/o.MD

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

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