HON'BLE SRI JUSTICE R. SUBHASH REDDY

AND

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

WRIT PETITION No.27149 OF 2015

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

This writ petition is filed seeking a direction by way of *Mandamus* to declare the steps initiated by respondent Nos.1 and 2 - the Authorized Officer, UCO Bank, Secunderabad and Branch Manager, UCO Bank, Secunderabad Branch, under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'the Act, 2002), and further the demand notice, dated 18-04-2015, and possession notice, dated 21-07-2015, issued by respondent No.1, as illegal and arbitrary.

2. The petitioner - M/s. Sri Radhika Global Exim Private Limited, a company, which is registered under the Companies Act, 1956, is engaged in the business of Export of Rice. The petitioner availed Export Packing Credit of Rs.3.50 Crores for FDB/FBP against confirmed orders/FLCs from the respondents by creating mortgage in respect of the scheduled properties by way of deposit of titles as security.

3. As the petitioner defaulted in repaying such amount, the respondents - bank initiated proceedings under Section 13 (2) of the Act, 2002 by way of demand notice, and thereafter, under Section 13 (4) of the Act, 2002 by way of possession notice.

4 . As on 10-08-2015, an amount of Rs.4,10,59,024-01ps. was payable by the petitioner to the respondents. To recover the said amount, the respondents also filed O.A. before the Debts Recovery Tribunal at Hyderabad against the petitioner and its guarantors.

5. The respondents, in their counter affidavit, while denying various allegations made by the petitioner, stated that they have issued impugned notices by following the due procedure. It is also stated that in spite of demand notice, the petitioner has not come forward to pay the debt and, as such, notice under Section 13(4) of the Act, 2002, was issued.

6. We have perused the material on record. While issuing notice before admission, this Court, by order, dated 09-09-2015, granted interim stay on condition of the petitioner depositing an amount of Rs.100.00 Lakhs within a period of four (04) weeks therefrom.

7. During the course of hearing, it has been fairly submitted by the learned counsel for the petitioner that, pursuant to the interim orders passed by this Court, no amount has been deposited by the petitioner.

8. The learned counsel, except stating that there are some amounts due to the petitioner's company from Foreign Buyers, urged no other ground. If the amount is to be recovered from the Foreign Customers, it is for the petitioner to recover the same, but that cannot be the basis for invalidating the notices issued under Sections 13 (2) and 13 (4) of the Act, 2002, respectively.

9. The petitioner has not disputed any procedural irregularity on the part of respondents - bank while issuing notices under the provisions of Act, 2002. Even, if the petitioner has any grievance, it is open for it

to put forth the same in O.A. filed by the respondents - bank before the Tribunal.

10. As the petitioner has not complied with the condition imposed by this Court, while granting interim stay and further in view of availability of alternative remedy by way of application before the Debts Recovery Tribunal as contemplated under Section 17 of the Act, 2002, following the decision of the Hon'ble Supreme Court in **United Bank of India v. Satyawati Tondon and Ors.,** the instant writ petition is dismissed. However, it is open for the petitioner to avail remedies under law if it is aggrieved of the steps initiated by the respondents - bank. No order as to costs.

11. As a sequel thereto, Miscellaneous Petitions, if any, pending in the writ petition, stand disposed of.

R. SUBHASH REDDY, J

A. SHANKAR NARAYANA, J

November 12, 2015.

Mgr