

**THE HON'BLE SRI JUSTICE RAMESH
RANGANATHAN**

And

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTI

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WRIT PETITION No.1323 of 2015

ORDER: (per Hon'ble Sri Justice Ramesh Ranganathan)

The validity of the auction notice dated 20.12.2014, issued by the respondent-Bank under Rules 6(2) and 8(6) of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Rules, 2002 published in Eanadu Telugu Daily, Chittoor District Edition, in respect of the petitioner's property, is under challenge in this writ petition.

The petitioner's case, in short, is that, while he was permitted to repay the principal amount with interest in 240 equated monthly instalments of Rs.31,841/-, he had paid monthly instalments of a reduced extent resulting in action being taken by the respondent-Bank and in a notice being issued, under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act (for short 'the Act'), on 20.12.2014 proposing to put the subject property to sale.

Sri M.V.Chalapathi, learned counsel for the petitioner, would submit that the petitioner has no other alternative except to invoke the jurisdiction of this Court, as the Presiding Officer of the Debt Recovery Tribunal, Hyderabad is on leave; the petitioner is ready and willing to pay the loan amount in equal monthly instalments, and he had so informed the respondent-bank by his letter dated 12.01.2014; guidelines issued by the Reserve Bank of India stipulates that, once the borrower has exhibited his *bona fides* for repaying the loan amount towards principal and interest, the Bank should revise the classification of NPA pursuant to the said guidelines; the Allahabad High Court, in W.P.No.11193 of 2014, has held that some breathing space can be granted to clear off the dues with some conditions; and the auction is scheduled to be held today. Sri Ambadipudi Satyanarayana, learned Standing Counsel for

the respondent-Bank would, however, submit that the auction would have been completed by now.

Be that as it may, while the petitioner is not disentitled from invoking the jurisdiction of this Court under Article 226 of the Constitution of India, as the Debt Recovery Tribunal is not functioning at present, interference would be called for only if the action of the respondent-Bank is illegal, or is contrary to any statutory provision or Rule, or if the petitioner's fundamental rights under Part-III of the Constitution of India are violated. The petitioner has not put forth any such grievance. His submission is only that some breathing time be granted to repay the loan amount in reasonable instalments. In exercise of its jurisdiction under Article 226 of the Constitution of India, this Court would not take upon itself the task of determining whether or not the borrower should be granted the facility of repaying the loan amount in instalments. These are all matters which the respondent- Bank is required to consider, and not for this Court to direct.

While we see no reason to interdict the auction proceedings, or any proceedings subsequent thereto, it is open to the petitioner to approach the respondent-Bank and request for repayment of the loan in instalments. If any such representation is made, we have no reason to doubt that the respondent-Bank would consider the same and communicate its decision to the petitioner with utmost expedition.

The writ petition is disposed of accordingly.

Miscellaneous petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

RAMESH RANGANATHAN, J

M.SATYANARAYANA MURTHY, J

29th January 2015.
JSU

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

And

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

WRIT PETITION No.1323 of 2015

Date: 29.01.2015

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