

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

WRIT PETITION No.7255 of 2015

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

This writ petition is filed by the petitioner seeking *Mandamus* to declare the action of the 2nd respondents-Bank in issuing reminder notice dated 28.2.2015 demanding the petitioner to pay an excess amount of Rs.23,33,654/- against the petitioner's representation dated 28.2.2015 for release of all securities to the petitioner after payment of entire loan.

2. The petitioner has borrowed certain amount from the 1st respondent-Bank. As he defaulted in repayment of loan amount, respondents have 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"). Earlier, when auction notice dated 22.6.2013 was issued under Section 13(2) of the SARFAESI Act, the petitioner has approached this Court by way of filing W.P.No.344 of 2014. In the said writ petition, it was represented that the approximate outstanding amount due by the petitioner to the respondent-Bank was Rs.1,15,00,000/-. In view of such representation, this Court, while disposing of the said writ petition, by order dated 01.04.2014, permitted the petitioner to pay the said amount in six instalments i.e., five instalments @ Rs.20,00,000/- per month, which shall be paid on or before 7th of every month, and the entire balance amount shall be paid as the sixth

instalment. When the respondents have issued notice dated 28.2.2015, demanding to pay an amount of Rs.38,33,654/- towards the sixth instalment, the petitioner has paid only Rs.15,00,000/- and when the respondents have issued the impugned reminder notice dated 28.2.2015 demanding to pay the balance amount of Rs.23,33,654/-, the petitioner has filed the present writ petition for the aforesaid relief.

3. A counter affidavit is filed by the 2nd respondent- Authorised Officer of the Bank on behalf of the respondents. Along with the counter affidavit, the particulars regarding dates of payments made by the petitioner and the outstanding amounts and interest accrued thereon were given in a tabular form, which indicates that the balance amount payable by the petitioner as on the said date is Rs.23,58,761.04 ps. No reply affidavit is filed by the petitioner, disputing the amount mentioned in the material placed on record along with the counter affidavit.

4. Having heard learned counsel for the parties, we have perused the impugned notice and the material placed on record.

5. If there is any dispute with regard to the calculations made by the respondent-Bank as regards the outstanding amount due, it is for the petitioner to approach the Bank seeking rectification of such calculations. But, in the absence of any legal infirmity in the impugned notice dated 28.2.2015, the petitioner is not entitled for the relief sought for in the writ petition.

6. The only submission of the learned counsel for petitioner is that this Court, by order dated 1.4.2014 in

W.P.No.344 of 2014, permitted the petitioner to pay the outstanding amount in six instalments i.e., five instalments @ Rs.20,00,000/- per month and the entire balance amount of Rs.15,00,000/- should be paid in the sixth instalment.

7. But, it is to be noticed that since it was represented that the approximate outstanding amount due by the petitioner as on the said date is Rs.1,15,00,000/-, this Court gave such a direction, but the same cannot be taken as a conclusive outstanding amount due by the petitioner.

8. For the aforesaid reasons, this writ petition is dismissed. If there any grievance with regard to the calculation of outstanding amount due, it is for the petitioner to approach the Bank with appropriate calculation memo, in which event, the respondent-Bank shall look into the matter and take appropriate steps in accordance with law.

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

JUSTICE R. SUBHASH REDDY

JUSTICE A.SHANKAR NARAYANA

14.07.2015.

NOTE: Issue C.C. in one week.
(B/O)
Msr

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

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