

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY
W.P.No. 7200 OF 2015

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

At the request of both Sri B.Vijaysen Reddy, learned counsel for the petitioner, and Sri B.S.Prasad, learned counsel for the respondent bank, the Writ Petition is being disposed of at the stage of admission.

The petitioner hitherto invoked the jurisdiction of the Debts Recovery Tribunal, Visakhapatnam ("the Tribunal" for short), under Section 17 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 ("2002 Act" for brevity), by filing S.A.No. 257 of 2014. Before the Tribunal, the petitioner herein filed a memo that he would liquidate the entire loan liability due to the respondent bank by 31-03-2015 and had indicated the payment schedule therein, to the effect that a sum of Rs.50,00,000/- would be paid on or before 31-01-2015; another Rs.50,00,000/- on or before 28-02-2015; and the remaining balance on or before 31-03-2015. In the light of the memo filed by the petitioner the Tribunal, by its order dated 26-12-2014, took the memo on record and directed the petitioner herein to follow the repayment schedule, as agreed upon, by making payment of Rs.50,00,000/- on or before 31-01-2015; another Rs.50,00,000/- by 28-02-2015; and the balance inclusive of principal, notional interest on reducing balance basis by 30-03-2015. The Tribunal made it clear that, in case the entire liability was liquidated as per the schedule given by the petitioner in his memo, the respondent bank would issue a no due certificate followed by release of title deeds; and, in case of default, the bank was given liberty to proceed in the matter from the stage, as on date, to recover its legitimate dues. The Tribunal also held that, in case the repayment schedule was adhered to, the petitioner would not be liable for the costs including lawyer's fees and other charges except the charges which

have been reasonably incurred for issuance of notice, publication *etc.*

The petitioner failed to adhere to the schedule, and has not paid either of the first two installments of Rs.50,00,000/- each till date. The last date for payment of the entire amount due expires, less than one week from now, on 30-03-2015. The proceedings under challenge in this Writ Petition is the auction notice, issued for sale of immovable property, dated 26-02-2015 inviting bids on or before 27-03-2015. The auction is scheduled to be held on 30-03-2015 at 11 *a.m.*

Sri B.Vijaysen Reddy, learned counsel for the petitioner, while stating that the petitioner, due to severe financial constraints, has not been able to adhere to the schedule mentioned in the memo filed by him before the Tribunal, would submit that, while the upset price for the first item is fixed at Rs.134.78 lakhs, its actual value is an excess of Rs.7,00,00,000/-; the petitioner is in the process of entering into a settlement with a third party for sale of the said plot, and to repay the entire amount due to the bank; and, if some breathing time is granted, the petitioner would repay the entire loan amount.

This Court, in proceedings under Article 226 of the Constitution of India, would not take upon itself the task of fixing the time schedule for repayment of the loan, or to re-schedule the payments by granting time. The petitioner has, admittedly, not complied with the memo filed by him before the Tribunal based on which he obtained an order. Any request, which the petitioner may have for re-scheduling the debt due, can only be addressed to the respondent bank. We have no reason to doubt that any reasonable request in this regard would be considered by the respondent bank in accordance with law.

Leaving it open to the petitioner to approach the respondent bank requiring them to re-schedule the payments, the Writ Petition fails and is, accordingly, dismissed. Pending miscellaneous petitions, if any, in this Writ

Petition shall stand dismissed in consequence. No order as to costs.

RAMESH RANGANATHAN, J.

M.SATYANARAYANA

MURTHY, J.

Date: 23rd March, 2015.

Note: Issue C.C. by tomorrow.

B/O

JSK