

HON'BLE SRI JUSTICE R. SUBHASH REDDY

AND

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

-

WRIT PETITION No.38285 OF 2015

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

This Writ Petition is filed with a prayer, which reads as under:

“...pleased to declare the proceedings initiated by the respondent No.2 Bank under SARFAESI Act, 2002 to the property mentioned in E-Auction Notification dated 21-10-2015 is illegal, arbitrary and violation of provisions under SARFAESI Act and Rules framed there under and in violation of Article 14, 21 and 300-A of Constitution of India and consequently direct the respondent No.2(i) not to proceed further with the property mentioned in E-Auction Notification dated 21-10-2015 under SARFAESI Act (ii) and set aside the E-Auction Notification dated 21-10-2015.....”

2 . The case of the petitioner is that respondent No.3, the then Secretary of the petitioner society fraudulently transferred the property belonging to the petitioner society by executing three Agreements of Sale - cum - General Power of Attorney in favour of respondent No.4, who in turn, executed three sale deeds in favour of his mother - respondent No.5. Thereafter, respondent Nos.4 and 5 availed the loan facility from respondent No.2 - Bank by mortgaging the said property and, as such, the property cannot be put in auction for recovery of debts of respondent Nos.4 and 5.

3 . Heard Sri S. Harinath Reddy, learned counsel for the

petitioner, and Sri A. Krishnam Raju, learned Standing Counsel for respondent No.2 - Bank.

4. For the relief sought in the instant writ petition, there is an effective and alternative remedy available to the petitioner by way of an appeal before the Debtors Recovery Tribunal under Section 17 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'SARFAESI Act'). Moreover, the learned counsel for respondent No.2 - Bank made a submission that in spite of publishing e-auction notice, dated 21-10-2015, no bids are received. In that view of the matter, there is no reason to entertain the present writ petition at this stage.

5. Accordingly, the Writ Petition is dismissed. However, it is made clear that if the petitioner is aggrieved of any steps taken by respondent No.2 - bank under SARFAESI Act, it is open to the petitioner society to approach the Debts Recovery Tribunal under Section 17 of SARFAESI Act. No order as to costs.

6. 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 26, 2015.

Mgr