

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF
ANDHRA PRADESH**

* * * *

WRIT PETITION No.25321 of 2015

Between:

New Man Mission Association
Rep. by its Secretary Sri T.Dasu Babu.

.. Petitioner

And

Syndicate Bank,
Assets Recovery Management Branch,
Rep. by its Authorized Officer.
and another.

.. Respondents

DATE OF JUDGMENT PRONOUNCED: 12-08-2015

—
SUBMITTED FOR APPROVAL:

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

1. Whether Reporters of Local newspapers

Yes/No

may be allowed to see the Judgment?

2. Whether the copies of judgment may be

Yes/No

marked to Law Reporters/Journals

3. Whether Their Lordship wish to
see the fair copy of the Judgment?
Yes/No

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

WRIT PETITION No.25321 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 action of respondent No.1 in holding auction of the petitioner's property consisting of land and building in an extent of Ac.2-00 gts covered by patta No.440 in Sy.No.206 situated at Jagapathinagaram Village, Kirlampudi Mandal, East Godavari District on 04.06.2015, as illegal, arbitrary and contrary to the procedure prescribed under the Securitisation & Reconstruction of Financial Assets & Enforcement of Security Interest Act, 2002 (for short, 'the Act') and the Security Interest (Enforcement) Rules, 2002.

The petitioner Association availed loan of Rs.53,00,000/- from the 1st respondent Bank by executing necessary documents and creating equitable mortgage to secure the loan. In view of the default committed by the petitioner, the 1st respondent Bank has initially filed O.A.No.48 of 2015 before

the Debts Recovery Tribunal, Visakhapatnam and subsequently initiated proceedings under the Act. After issuing necessary demand notice and possession notice, possession of the secured assets was taken by obtaining orders under Section 14 of the Act and further, by issuing sale notice, secured assets were put to auction. After adjusting the loan amount of Rs.53,00,000/-, the 1st respondent Bank has issued notice dated 27.07.2015 requesting the petitioner to collect the excess amount to the tune of Rs.31,43,876.27 ps. lying with them.

In this writ petition, it is contended by learned counsel for the petitioner that there are five independent buildings in the aforesaid land of Ac.2.00 gts covered by patta No.440. It is further stated that though the 1st respondent has obtained orders under Section 14 of the Act for assistance to take possession of five buildings, they have taken physical possession of only three buildings, however auctioned all the five buildings. It is also submitted that after taking possession, for three years no steps were taken to auction the same, as such, the petitioner is deprived of using the buildings.

It is not in dispute that after issuing demand notice and possession notice and also after obtaining orders under Section 14 of the Act, the 1st respondent Bank sold the secured assets in the auction. If the petitioner is aggrieved by any of the steps taken by the 1st respondent, he has an effective alternative remedy of filing application under Section

17 of the Act, but without availing such remedy, he has directly approached this Court. In view of the factual dispute raised by the petitioner, it is for him to approach the Tribunal under the Act for redressal of his grievance.

For the aforesaid reasons and in view of the availability of efficacious alternative remedy under Section 17 of the Act before the Debts Recovery Tribunal, the writ petition is dismissed without going into the merits of the case. No order as to costs.

As a sequel, pending miscellaneous petitions, if any, shall stand closed.

JUSTICE R. SUBHASH REDDY

JUSTICE A.SHANKAR NARAYANA

12.08.2015

v v