

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

WRIT PETITION No.14205 of 2015

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

This writ petition is filed seeking to set aside the order dated 01.05.2015 in I.A.No.1476 of 2015 in S.A.No.233 of 2015 passed by the 1st respondent-Debts Recovery Tribunal at Hyderabad.

In exercise of powers under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act), to realize the debt due by the 2nd respondent to the 3rd respondent Bank, the mortgaged property was put to auction by issuing sale notice dated 16.02.2015 and the petitioner claims to be the highest bidder for the property sold in the auction conducted on 23.03.2015.

Challenging the sale notice, the 2nd respondent filed an application under Section 17 of the SARFAESI Act before the Debts Recovery Tribunal at Hyderabad and the same was numbered as S.A.No.233 of 2015. He also moved an interlocutory application for grant of stay of all further proceedings pursuant to the sale notice dated 16.02.2015, but no interim orders were passed therein and, as such, auction was conducted on 23.03.2015. After conducting the auction and payment of entire bid amount by the petitioner-auction

purchaser and after the sale certificate was issued, the 2nd respondent filed the present interlocutory application being I.A.No.1476 of 2015. By the impugned docket order dated 01.05.2015 in I.A.No.1476 of 2015, the Tribunal directed the 3rd respondent Bank to maintain *status quo* in respect of the subject property, including delivery of possession and issuance of sale certificate, pending disposal of the S.A.

Sri Vedula Venkata Ramana, learned Senior Counsel appearing for the petitioner-auction purchaser, submitted that though the Tribunal earlier refused to grant interim orders, subsequently it has passed the impugned order of *status quo*, in spite of the petitioner being declared as the highest bidder in the auction conducted on 23.03.2015 and paying entire bid amount of about 2.70 lakhs. It is also submitted that there is no reason to pass an order of *status quo* depriving the petitioner of his right to take possession of the subject property, which was purchased by him in the auction.

Learned counsel for the 2nd respondent-borrower submitted that as the 3rd respondent committed certain irregularities in conducting the sale and the same is required to be decided in the main S.A, which is pending, there is no illegality in the impugned order so as to interfere with the same at this stage in this writ petition filed under Article 226 of the Constitution of India.

Sri E.Madan Mohan Rao, learned counsel for the 3rd respondent – Bank, supported the case of the petitioner stating that the petitioner is the highest bidder in the auction

conducted on 23.03.2015.

From a perusal of the impugned order, it is clear that prior to filing of the present I.A.No.1476 of 2015, the 2nd respondent has filed an interlocutory application seeking stay of all further proceedings pursuant to the auction sale notice dated 16.02.2015, but it appears no interim relief was granted therein and as such, the Authorised Officer of the 3rd respondent Bank proceeded with the auction and the petitioner stood as the highest bidder in the auction conducted on 23.03.2015. The petitioner claims to have deposited the entire amount of Rs.2.70 lakhs. It is brought to the notice of this Court that though the petitioner is the auction purchaser, even by this time no steps have been taken by the 2nd respondent to implead him as a party respondent in the S.A. pending before the Tribunal. As much as the petitioner is stated to have paid the entire bid amount, we are of the view that he is a proper and necessary party to I.A.No.1476 of 2015 and S.A.No.233 of 2015 pending before the Tribunal.

As the impugned order is an interim order and the main S.A. is still pending and as it is stated that though there is no Presiding Officer to the Tribunal, the In-charge Officer is conducting camp Court in Hyderabad in the first week of July, we deem it appropriate to dispose of the writ petition with the following directions:

- (1) The Tribunal is directed to implead the petitioner- auction purchaser as a party respondent to I.A.No.1476 of 2015 and S.A.No.233 of 2015 pending on its file,

(2) The Tribunal is further directed to dispose of S.A.No.233 of 2015 expeditiously, after hearing the parties.

(3) If, for any reason, the Tribunal is not able to dispose of the appeal expeditiously, it shall treat the impugned order as an ad-interim order and pass appropriate final orders in I.A.No.1476 of 2015 within a period of three weeks from today, after hearing the claim of the petitioner.

Subject to the above directions, the writ petition is disposed of. No order as to costs.

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

JUSTICE R. SUBHASH REDDY

JUSTICE A.SHANKAR NARAYANA

29.06.2015
v v