

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

And

THE HON'BLE SRI JUSTICE S.RAVI KUMAR

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WRIT PETITION No.17271 of 2015

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

The proceedings, under challenge in this Writ Petition, is the notice of sale dated 10.05.2015 issued under Rules 6 (2) and 8(6) of the Security Interest (Enforcement) Rules, 2002 and the SARFAESI Act, 2002. It is not in dispute that the account of the petitioners herein had become a non-performing asset. It is not even the case of the petitioners that the respondents have violated any provision of the SARFAESI Act or the rules made thereunder, in putting the subject property to sale. All that is stated is that the petitioners had requested the bank to extend to them the benefit of 'One Time Settlement' (OTS). Reliance is placed by them on the affidavit now filed wherein it is stated that they would pay the balance amount within six months from the date of negotiation and finalization of the amount.

Sri B.Chandrasen Reddy, learned counsel for the respondent-Bank, would submit that such a vague undertaking does not merit acceptance and, in the absence of any illegality in the action taken by the respondent-Bank, no interference is called for. In the absence of any statutory violation, it would be wholly inappropriate for this Court to exercise its discretionary jurisdiction under Article 226 of the Constitution of India to interfere with the action of the respondent-Bank in putting the subject property to sale.

Suffice it to make it clear that the order now passed by us would not preclude the petitioners from availing their statutory remedy under Section 17 of the SARFAESI Act, or from approaching the respondent-Bank and seek the benefit of OTS. We have no reason to doubt that, if any such request is made, the respondent-Bank would consider the same in accordance with law.

The Writ Petition fails and is, accordingly, dismissed. The miscellaneous petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.

RAMESH RANGANATHAN, J

S.RAVI KUMAR, J

16th September, 2015.
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