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

WRIT PETITION Nos.22343 and 22355 of 2015

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

Since the issue involved in these two writ petitions is one and the same, they are heard together and being disposed of by this common order.

2. In these writ petitions, the petitioners have challenged the letter No.1602/11/179, dated 29.6.2015, issued by the respondent-Bank, mainly on the ground that the same is contrary to the judgment of the Apex Court in the case of MATHEW VARGHESE vs. M. AMRUTHKUMAR AND OTHERS[1].

3. In both these writ petitions, the 1st petitioner is the borrower and the other petitioners are guarantors for the loan obtained by it from the respondent-Bank. The 1st petitioner in W.P.No.22343 of 2015 has borrowed loan from the respondent-Bank for the purpose of establishing a Dairy Farm, and the 1st petitioner in W.P.No.22355 of 2015 has borrowed loan from the respondent-Bank for the purpose of establishing a Cattle Feed Unit. As both of them defaulted in repayment of loan amount, after initiating proceedings under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, when the

respondent-Bank is taking steps to sell the secured assets, the 1st petitioner in both the writ petitions have approached the Debts Recovery Tribunal, Hyderabad, by way of filing Securitisation Applications being SA.IR.Nos.11 and 12 of 2015 and obtained interim orders of stay dated 23.1.2015, on condition of deposit of 20% of the amount claimed by the respondent-Bank. However, the petitioners have not complied with the said order. In view of the default committed by the 1st petitioner in both the writ petitions, when the respondent-Bank is taking further steps to auction the secured assets, the petitioners have filed the present writ petitions.

4. Having heard Sri D. Madhava Rao, learned counsel for the petitioners, as well as Sri Vijay Kumar Heroor, learned Standing Counsel for respondent Nos.2 and 3-Bank, we have perused the impugned letter dated 29.6.2015 and the material on record.

5. Pursuant to the E-Auction Notice dated 17.6.2015, auction was to be conducted on 23.7.2015. This Court, by order dated 22.7.2015, allowed the respondent-Bank to proceed with the auction pursuant to e-auction notice dated 17.6.2015, with a direction to the respondent-Bank not to confirm the sale until further orders, on condition of the petitioners in both the writ petitions depositing Rs.103 Lakhs in two instalments, viz., Rs.50 lakhs and Rs.53 lakhs, respectively.

6. When the matters are called for hearing, it is

represented that the petitioners have already deposited Rs.103 Lakhs, pursuant to the order passed by this Court on 22.7.2015 and consequently, the auction was not confirmed insofar as item No.2 of e-auction notice dated 17.6.2015, and insofar as item No.1 of the said notice is concerned, the said property was not sold.

7. In view of the said submission, as the Securitisation Applications being SA.IR.Nos.11 and 12 of 2015 filed by the 1st petitioner in both the writ petitions are pending consideration, it is not necessary to go into the validity of the steps taken by the respondent-Bank, at this stage.

8. Since the petitioners have already deposited an amount of Rs.103 Lakhs pursuant to the orders of this Court dated 22.7.2015, representing more than 20% of the loan amount in both the writ petitions, we deem it appropriate to dispose of the writ petitions directing the Debts Recovery Tribunal, Hyderabad, to dispose of SA.IR.Nos.11 and 12 of 2015 filed by the petitioners as expeditiously as possible, preferably within a period of two months from the date of receipt of a copy of this order. There shall be a direction to the respondent-Bank not to confirm the sale in favour of the third party-purchasers till disposal of the aforesaid Securitisation Applications. It is open to the respondent-Bank to take further steps to recover the balance amount from the petitioners, subject to the final orders being passed by the Debts Recovery Tribunal, Hyderabad, in the aforesaid Securitisation

Applications.

9. Subject to the above directions, both these writ petitions are disposed of. As a sequel, miscellaneous petitions pending, if any, in these writ petitions shall stand closed. No order as to costs.

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JUSTICE R. SUBHASH REDDY

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JUSTICE A.SHANKAR NARAYANA

17.08.2015.

NOTE: Issue C.C. in three days.
(B/O)
Msr

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

WRIT PETITION Nos.22343 and 22355 of 2015

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Msr

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[1] (2014) 5 SCC 610