

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

WRIT PETITION No.41918 of 2015

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

This writ petition is filed by the petitioners seeking *Mandamus* declaring the action of the respondent-Bank in conducting e-Auction Sale of the property being semi-finished Flat No.301, 2nd Floor, plinth area of 1906 square feet, including common area and car parking of 80 square feet along with undivided share of land admeasuring 53 square yards, out of 1950 square yards on Plot Nos.10 and 9 (part) in the building known as 'Surabhi Residency' in Sy.No.175, Gangasthan, Dulapally Village and Gram Panchayat, Quthbullapur Mandal, Ranga Reddy District, as arbitrary, illegal and contrary to the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity "the SARFAESI Act").

2. During the course of hearing, it is submitted by the learned counsel for petitioners that the aforesaid property was sold by the respondent-Bank in exercise of the powers under the SARFAESI Act pursuant to the e-Auction Sale Notice issued on 09.10.2015.

3. However, the auction purchaser is not made a party-respondent to the writ petition. If there is any illegality in conducting and selling the subject property in the auction, the petitioners have an effective alternate remedy of filing Securitisation Application under Section 17 of the SARFAESI Act before the Debts Recovery Tribunal, Hyderabad. In view of

availability of such alternate remedy, we do not find any reason to admit this writ petition straight away.

4. As it is represented by the learned counsel for petitioners that the Sale Certificate is not yet issued to the third party-auction purchaser, the respondent-Bank is directed not to issue Sale Certificate in respect of the subject property for a period of two weeks from today. If any such application is filed by the petitioners before the Debts Recovery Tribunal, Hyderabad, it is open for the Tribunal to dispose of such Securitisation Application on its own merits by passing appropriate orders in accordance with law.

5. Subject to the above direction, this writ petition is disposed of, at the admission stage. As a sequel, miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

JUSTICE R. SUBHASH REDDY

JUSTICE A.SHANKAR NARAYANA

23.12.2015.

Msr

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