

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

WRIT PETITION No.9730 of 2011

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

This writ petition is filed by the petitioner seeking *Mandamus* to declare the action of the respondent-Dewan Housing Finance Corporation Limited in initiating proceedings dated 25.02.2011 under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity "the SARFAESI Act"), as arbitrary and illegal.

2. The petitioner has obtained a loan of Rs.3,40,000/- from the respondent-Corporation in the year 2008 by depositing the title deeds of the property i.e., open plot No.700/A, Bonthapally Village, near Dundigal Airforce Station. As the petitioner has defaulted in repaying the said loan amount, the respondent-Corporation has initiated proceedings by issuing a notice dated 25.02.2015 under the provisions of the SARFAESI Act, demanding to pay an amount of Rs.3,40,000/-. Challenging the said notice, the petitioner has filed the present writ petition.

3. This Court, by order dated 09.06.2011 in W.P.M.P.No.12025 of 2011, granted interim stay, on condition of the petitioner depositing Rs.2,00,000/- within a period of four weeks from the said date, failing which, the respondent-Corporation was granted liberty to proceed against the petitioner in accordance with law.

4. Today, when the matter is called for hearing, it is represented by the learned counsel for petitioner that the total amount due by the petitioner is Rs.3,40,000/- only and pursuant to the said interim orders, though the petitioner has deposited Rs.2,00,000/-, the respondent-Corporation is showing the balance amount due and payable by the petitioner as Rs.5,03,831/-.

5. On the other hand, the learned Standing Counsel for respondent-Corporation, submits that from the date of obtaining loan in the year 2008, the petitioner has not paid any instalment, except an amount of Rs.2,00,000/-, which was paid pursuant to the aforesaid interim orders of this Court. He would further submit that as on today, inclusive of interest, the total amount due and payable by the petitioner is Rs.5,03,831/-.

6. Learned counsel for the petitioner requests for grant of a reasonable time to pay the balance amount.

7. As the petitioner has committed default in repaying the loan amount, we do not find any illegality in initiating proceedings by the respondent-Corporation under the provisions of the SARFAESI Act. At the same time, as the petitioner has already deposited an amount of Rs.2,00,000/- pursuant to the interim order dated 09.06.2011, we deem it appropriate to dispose of the writ petition, permitting the petitioner to pay the balance amount due and payable together with interest as per the terms of agreement in two equal instalments within a period of six months from today, out of which, the 1st instalment shall be paid within a period of

three months from today, and the 2nd instalment shall be paid within a period of three months thereafter. It is made clear that failing to deposit the balance amount as stipulated above, it is open to the respondent-Corporation to take further steps for realization of the balance amount in accordance with law. As a sequel, miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

JUSTICE R. SUBHASH REDDY

JUSTICE A.SHANKAR NARAYANA

25.08.2015.
Msr

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