

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

WRIT PETITION No.15436 of 2015

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

The petitioner – State Bank of India, through its Chief Manager, has filed this writ petition seeking *Mandamus* to declare the order dated 19.2.2015 in R.P.No.131 of 2007 in O.A.No.75 of 2002 passed by the Debts Recovery Tribunal, Visakhapatnam, deferring the auction notice dated 14.7.2014 in favour of auction purchasers on the ground of pendency of SLP.No.2292 of 2015 before the Hon'ble Supreme Court and without any specific stay of confirmation of sale, as arbitrary and illegal.

2. Respondent Nos.3 to 12 have borrowed certain loan amounts from the petitioner-Bank. When they defaulted in repayment of the loan amounts, the petitioner-Bank has filed O.A.No.75 of 2002 before the Debts Recovery Tribunal, Visakhapatnam, and the same was allowed. To execute the said order, recovery proceedings were initiated in R.P.No.131 of 2007 and the properties of respondent Nos.3 and 4 were sold in auction.

3. Earlier, the 3rd respondent has made an application dated 16.9.2014 seeking to extend the benefit of One Time Settlement (OTS) Scheme for settlement of his account, which

is already notified as NPA. When the said application was rejected, the 3rd respondent has filed W.P.No.29848 of 2014 and this Court dismissed the said writ petition by order dated 05.11.2014. As against the said order, the 3rd respondent has carried the matter to the Hon'ble Supreme Court by way of Special Leave Petition being SLP.No.2292 of 2015 and the Hon'ble Supreme Court passed order dated 30.01.2015, the relevant portion of which reads as under :

“It is stated by the learned counsel appearing on behalf of the petitioner that an amount of Rs.1 Crore and 40 lacs has already been deposited.

The petitioner shall deposit a further sum of Rs. Two crores and file proof of deposit thereof in the Registry.

Office to list the matter for further consideration immediately thereafter.”

4. It is submitted by the learned Standing Counsel for the petitioner-Bank that though there is no interim order granted by the Hon'ble Supreme Court, inspite of paying the sale consideration by the auction purchaser, the sale is not being confirmed in favour of the auction purchaser. The learned counsel further submits that in view of pendency of the aforesaid SLP before the Hon'ble Supreme Court, the impugned order dated 19.2.2015 is passed by the Tribunal, deferring confirmation of sale on the ground of pendency of SLP.

5. From a perusal of the order dated 30.01.2015 passed by the Hon'ble Supreme Court, it appears that the 3rd respondent has made a representation stating that he has

already deposited a sum of Rs.1,40,00,000/- and the Hon'ble Supreme Court directed him to deposit a further sum of Rs.2.00 Crores.

6. Although it is represented that Rs.2.00 Crores is not deposited as per the said directions, as the matter is pending, it is for the petitioner-Bank to obtained appropriate directions from the Hon'ble Supreme Court and no direction can be granted by this Court in this writ petition.

7. For the aforesaid reasons, leaving it open for the petitioner-Bank to seek clarification as regards confirmation of sale of the properties auctioned, this writ petition is dismissed. As a sequel, miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

JUSTICE R. SUBHASH REDDY

JUSTICE A.SHANKAR NARAYANA

22.07.2015.

NOTE: Issue C.C. by 27.07.2015.

(B/O)
Msr

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

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