

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

WRIT PETITION No.34948 of 2015

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

This writ petition is filed by the petitioner seeking *Mandamus* declaring the action of the respondent-Bank in proceeding under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity "the SARFAESI Act") for sale of the agricultural property in an extent of Acs.2.87 ½ cents of land situated at D.No.259/A, Yetukuru Village, Guntur District, which was said to have been mortgaged to the respondent-Bank, inspite of receipt of huge amount towards repayment of loan, as arbitrary and illegal.

2. Mainly, it is the case of the petitioner that as the aforesaid land is agricultural land, the same is exempted from sale as per the provisions under Section 31(i) of the SARFAESI Act.

3. Heard learned counsel for the parties and perused the material and the counter filed by the respondent-Bank.

4. It is to be noticed that even before filing the writ petition, the petitioner has approached the Debts Recovery Tribunal, Visakhapatnam, by way of filing S.A.No.245 of 2015. The Tribunal has disposed of S.A.No.245 of 2015, by order dated 27.10.2015, the relevant portion of which reads as follows:

"1) Applicant is directed to approach the Respondent Bank and to submit a concrete proposal for settlement of dues/account. Respondent Bank is directed to consider the proposal and allow (Applicants) to pay the entire overdue amount within one month.

2) If the entire overdue amount is paid, then Respondent Bank may consider restructuring of the account, as per their recovery and rehabilitation policy.

3) As the possession notice has not been published, the S.A. is not maintainable and is liable to be dismissed, hence dismissed. The possession notice relied upon by the Applicant dated 01.10.2015 is also quashed as the same is not published.”

5. Inasmuch as the possession notice is already quashed and there is also a direction to consider the offer made by the petitioner to pay the overdue amount, nothing survives for adjudication in this writ petition and the question of sale of the subject property would not arise, at this stage.

6 . In view of the order dated 27.10.2015 passed by the Debts Recovery Tribunal, Visakhapatnam, in S.A.No.245 of 2015, no direction, as prayed for, can be granted in this writ petition.

7. Accordingly, this writ petition is dismissed, 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

01.12.2015.

Msr

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