

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

WRIT PETITION No.18875 of 2015

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

This writ petition is filed by the petitioner challenging the e-Auction Sale Notice dated 26.05.2015 issued by the 2nd respondent-Bank, more particularly in respect of item No.5 property bearing Municipal No.8-2-420/A, situated at Road No.12, Banjara Hills, Hyderabad, as arbitrary and illegal.

2. It is the case of the petitioner that he is entitled for half a share i.e., 270.30 square yards in the aforesaid property by virtue of a registered Gift Settlement Deed vide Document No.1388/2001, dated 23.04.2001 executed by the original owner, which was mortgaged by respondent Nos.4 and 5 to the 2nd respondent-Bank by creating forged documents, which inturn, has issued the impugned e-Auction Sale Notice dated 26.05.2015, in exercise of the powers under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity 'the SARFAESI Act').

3. While issuing notice before admission, this Court, by order dated 29.06.2015, directed the 2nd respondent-Bank not to take any further steps with regard to item No.5 of the said sale notice. In view of the said direction, no auction was conducted. At the same time, learned Standing Counsel for the 2nd respondent-Bank submits that aggrieved by the said sale notice, respondent No.3 has filed S.A.No.325 of 2015, wherein interim order was granted by the

Tribunal.

4 . As it is represented that pursuant to the directions of this Court, no auction is held pursuant to the e-Auction Sale Notice dated 26.05.2015 and as the petitioner is raising factual disputes, if any fresh auction sale Notice is issued, the petitioner has an effective alternate remedy under Section 17 of the SARFAESI Act.

5. In that view of the matter, we deem it appropriate to dispose of the writ petition observing that in the event if any fresh auction Sale Notice is issued in respect of the property claimed by the petitioner, the petitioner is given liberty to challenge the same by way of filing Securitisation Application before the Debts Recovery Tribunal, Hyderabad, which shall be considered on its own merits in accordance with law.

6. 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

02.12.2015.

Msr

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