

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

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WRIT PETITION No.15252 OF 2015

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

This Writ Petition is filed seeking a direction by way of mandamus to declare the sale notice, dated 05.05.2015, as distress sale as the petitioner himself is ready and willing to pay the outstanding amount under the OTS through sale of the agricultural land belonging to him.

Petitioner has availed loan facility from the respondent – Indian Overseas Bank by creating equitable mortgage over the agricultural land admeasuring Ac.200.00 covered by various survey numbers situated at Kalojiwada Village, Tadwai Mandal, Nizamabad District, and by showing his properties situated at Hyderabad as collateral security. It is stated that the outstanding amount as of now is about Rs.13.00 Crores. Therefore, after initiating proceedings under Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, Possession Notice, dated 16.10.2014, was issued and the same was challenged by way of filing S.A.I.R.No.932 of 2014 before the Debts Recovery Tribunal, Hyderabad. The Tribunal, by way of interim order, dated 21.01.2015, has granted stay of all further proceedings pursuant to the Possession Notice, dated 16.10.2014, on condition of petitioner depositing 20% of the outstanding amount claimed in the Possession Notice directly with the respondent Bank in two equal installments within eight weeks, but the petitioner has not complied with the said condition and has approached this Court by filing the present Writ Petition.

It is the case of the petitioner that though he is willing to sell the mortgaged property to repay the outstanding loan amount, he is not permitted to do so.

It is not in dispute that at the time of obtaining loan, the petitioner has created equitable mortgage over his agricultural land, apart from giving collateral security of his other properties. Therefore, it is for the Bank and the authorised person to decide and proceed against any of such securities, but it is not for the petitioner to stall the proceedings on the ground that he himself is prepared to sell the lands mortgaged by him, so as to repay the outstanding amount. Hence, we are not convinced with the submission made by the learned counsel for petitioner. Further, the petitioner has neither challenged the condition imposed by the Tribunal nor has complied with such condition. Hence, we do not find any merit in this Writ Petition to admit the same.

Accordingly, the Writ Petition is dismissed. However, it is made clear that if any application is pending for settlement of the debt under OTS, it is open to the authorities to consider such application uninfluenced by any of the observations made in this order.

Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed. No costs.

R.SUBHASH REDDY, J

A.SHANKAR NARAYANA, J

June 08, 2015

MD