

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

WRIT PETITION No.30723 of 2015

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

In this writ petition, the petitioners have questioned the possession notice dated 28.03.2015 issued under Rule 8 (11) of the Security Interest (Enforcement) Rules framed under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the Act').

The petitioners have borrowed a sum of Rs.63,00,000/- from the respondent Bank on 31.01.2014 for business purpose, by depositing the title deed in respect of their house property constructed in an area of 200 sq. yards on plot No.3 in Sy.No.47 situated in the layout of Sanjeevaiah Nagar Co-operative House Building Society of Thokatta Village, Bowenpally, Secunderabad Contonment.

On the ground that the petitioners have committed default in repaying the loan amount, the respondent Bank has initiated proceedings under the Act. After issuance of demand notice under Section 13 (2) of the Act, the impugned possession notice was issued under Rule 8 (11) of the Rules. As per the possession notice dated 28.03.2015, an amount of Rs.65,49,684/- is due from the petitioners.

Though the petitioners have averred in their affidavit that in

spite of submitting their representation pursuant to the notice issued under Section 13 (2) of the Act, the respondents have taken further steps by

taking possession of the secured asset in contravention of the Rules framed under the Act, when the matter is called for hearing, it is represented by learned counsel for the petitioners that in view of financial stringency and losses sustained in the business, the petitioners could not repay the loan amount in time and requested for grant of some time to pay the amount due. Further it is stated that the secured asset, possession of which is taken, is a residential house where the petitioners were living.

In view of the request made by learned counsel for the petitioners and having regard to the reasons stated in the affidavit, we deem it appropriate to dispose of the writ petition permitting the petitioners to pay the outstanding balance amount in two equal instalments within a period of three months from today i.e., half of the amount due shall be paid on or before 04.11.2015 and the remaining half shall be paid on or before 19.12.2015. It is made clear that till such time, no steps shall be taken to auction the secured asset and that if the petitioners fail to pay the amount as referred to above, it is open to the respondents to take appropriate steps to sell the secured asset for realization of the amount due from the petitioners.

Accordingly, the writ petition is disposed of. As a sequel, pending miscellaneous petitions, if any, shall stand closed. No order as to costs.

JUSTICE R. SUBHASH REDDY

JUSTICE A.SHANKAR NARAYANA

21.09.2015

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