

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

And

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

WRIT PETITION No.4653 of 2015

ORDER: (per Hon'ble Sri Justice Ramesh Ranganathan)

The relief sought for in this Writ Petition is to declare the action of the respondents, in proposing to auction the petitioner's house and house site properties on 05.03.2015 by way of tender-cum-auction, even though the petitioner is willing to repay the entire loan amount, as arbitrary and illegal.

It is wholly unnecessary for us to go into the contentions urged on merits, as an affidavit of undertaking has been filed by the petitioner stating that he would pay the entire balance amount of Rs.65,98,644/- by 01.08.2015 in six monthly instalments. While the affidavit filed on 27.02.2015 refers to the first instalment, payable by 15.03.2015, to be Rs.10,00,000/-, Sri Y.N.Lohita, learned counsel for the respondents, however contended that the first instalment be enhanced to Rs.15,00,000/- . An additional affidavit dated 02.03.2015 is now filed by the petitioner undertaking to pay the first instalment of Rs.15,00,000/- by 15.03.2015, the next four instalments of Rs.10,00,000/- each by the 10th of April, 10th of May, 10th of June, and the 10th of July, 2015, and the last instalment of Rs.10,98,644/- + subsequent interest, if any, by 01.08.2015. Violation of the undertaking would not only enable the respondents to proceed to put the secured asset to sale, but would also result in action being taken against the petitioner under the Contempt of Courts Act (for brevity, 'the Act'), for violation of the undertaking given to this Court.

Sri Y.N.Lohita, learned counsel for the respondents, on instructions, states that, in view of the undertaking now given by the petitioner, the respondents would not proceed to auction the subject property; and the interest of the respondents be protected in case of default by the petitioner in adhering to the aforesaid undertaking.

As learned counsel on either side have agreed that, in the light of

the aforesaid undertaking, the auction not to be proceeded with, ends of justice would be met if the respondents are directed not to proceed with the auction in the light of the undertaking filed by the petitioner. It is made clear that, in case of default in payment of any one of the instalments as aforementioned, the respondents would be entitled to put the subject property to sale and, if need be, initiate proceedings against the petitioner under the Act.

The Writ Petition is disposed of accordingly. The miscellaneous petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

RAMESH RANGANATHAN, J

M.SATYANARAYANA MURTHY, J

03rd March, 2015.

Note:

*Furnish C.C. of the order
by 06.03.2015.*

B/o

Tsy