

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLR SRI JUSTICE M.SATYANARAYANA MURTHY

WRIT PETITION No. 7396 OF 2015

ORDER: *(Per the Hon'ble Sri Justice Ramesh Ranganathan)*

The Writ Petition, as filed, is an abuse of process of Court. The petitioner invoked the jurisdiction of this Court by way of the present Writ Petition seeking time to repay the entire debt due within two months from the date of order.

A Division Bench of this Court, by its order dated 20.03.2015, recorded the submission made by the learned counsel for the petitioners that the entire bank dues would be paid within two months from that date. In view of the said submission, the Division Bench directed the respondent bank not to proceed with the matter provided the petitioners deposited the costs of the advertisement, to be quantified by the bank, on Tuesday (24.03.2015) itself. The Division Bench made it clear that, if costs were not deposited, the respondents may proceed with the auction sale.

Smt. T. Suneetha, learned counsel for the petitioners, would submit that, while the petitioners were ready to pay the advertisement charges, the respondent Bank did not furnish the information and as a result, the Demand Draft for Rs.38,160/- was taken on (Wednesday) 25.03.2015 towards advertisement charges.

In the vacate stay petition, filed on behalf of the first respondent bank, it is stated that the petitioners have filed an Insolvency Petition - I.P.No.6 of 2014, summons were issued to the bank (which is respondent No.168 in the I.P) on 22.03.2014, and suppressing this fact, in the affidavit filed in support of the Writ Petition, the petitioner has invoked the jurisdiction of this Court.

It is evident from a copy of the Insolvency Petition, (wherein the bank is shown as respondent No.168), that an Insolvency Petition was filed by the petitioners under Section 10 of the Provincial Insolvency Act. As the petitioners have not come to Court with clean hands, and have abused the process of Court, suppressing the fact that the I.P was filed by them as early as in March, 2014, nearly a year before filing the present Writ Petition, we see no reason to exercise the

discretion, under Article 226 of the Constitution of India, to interfere.

The Writ Petition is liable to be, and is accordingly, dismissed with exemplary costs which we quantify at Rs.10,000/- (Rupees ten thousand only). The petitioners shall pay the aforesaid costs to the first respondent bank within four weeks from today. Miscellaneous petitions, if any, pending shall also stand dismissed.

(RAMESH RANGANATHAN, J)

(M.SATYANARAYANA MURTHY, J)

Date: 20.04.2015

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