

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

WRIT PETITION No.27483 of 2015

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

The petitioners have filed this writ petition seeking *Mandamus* to declare the action of the 1st respondent-Bank in auctioning their secured asset on 26.03.2015 for Rs.104.90 Lakhs, while an application being I.A.No.2258 of 2015 in S.A.No.170 of 2015 seeking extension of time is pending consideration before the 2nd respondent-Debts Recovery Tribunal, Hyderabad, as arbitrary and illegal.

2 . The petitioners have availed certain loan facilities from the 1st respondent-Bank and defaulted in repaying the same. As such, after initiating proceedings under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity "the SARFAESI Act") and the Rules made thereunder, the 1st respondent-Bank has issued E-Auction Sale Notice dated 22.02.2015. Challenging the said sale notice dated 22.02.2015, the petitioners have filed S.A.No.170 of 2015 before the Debts Recovery Tribunal, Hyderabad. Initially, by order dated 25.03.2015, while allowing to proceed with the E-Auction sale, the Tribunal has directed the 1st respondent-Bank not to issue sale certificate in favour of the auction purchaser, on condition of the petitioners depositing 30% of the amount claimed by the respondent-Bank in two

instalments, within a period of four weeks from the date of the said order. As the said conditional order was not complied with, the petitioners have filed an interlocutory application being I.A.No.2258 of 2015 in S.A.No.170 of 2015 seeking extension of time, wherein the Tribunal has passed orders on 29.4.2015 extending time for payment of the amount by two more weeks. In spite of the same, the 1st respondent-Bank has issued sale certificate in favour of the auction purchaser.

3. Learned counsel for the petitioners contends that even before expiry of the said extended period granted by the Tribunal, the respondent-Bank has issued the sale certificate in favour of the auction purchaser in contravention of the orders passed by the Tribunal.

4. On the other hand, Sri B.S. Prasad, learned Standing Counsel for the 1st respondent-Bank, submits that the said extended period of two weeks expired on 12.05.2015 and the sale certificate was issued in favour of the highest bidder on 13.05.2015. The learned Standing Counsel would further submit that though S.A.No.170 of 2015 filed by the petitioners is pending before the Tribunal, no steps are taken to implead the auction purchaser as a party respondent.

5. In view of the pendency of S.A.No.170 of 2015 before the Debts Recovery Tribunal, Hyderabad, we are not inclined to record any finding as to whether the sale certificate issued in favour of the auction purchaser is in contravention of the orders passed by the Tribunal or not.

6. As it is not in dispute that the sale certificate was issued pursuant to the E-Auction Sale Notice dated 22.02.2015 and the auction conducted on 26.03.2015 and

also in view of the pendency of S.A.No.170 of 2015 before the Debts Recovery Tribunal, Hyderabad, we deem it appropriate to dispose of the writ petition, granting liberty to the petitioners to question the sale certificate dated 13.05.2015 issued in favour of the auction purchaser by impleading him as a party respondent in S.A.No.170 of 2015. The petitioners are granted two weeks time to file appropriate applications for amendment of prayer and also for impleadment of the auction purchaser. If such applications are filed within the stipulated period, the Debts Recovery Tribunal, Hyderabad, shall consider the same and pass appropriate orders disposing of S.A.No.170 of 2015 itself, as expeditiously as possible, preferably within a period of three months from today.

7. Subject to the above directions, 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

02.09.2015.
Msr

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

WRIT PETITION No.27483 of 2015

02.09.2015

Msr