

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

WRIT PETITION No.7935 of 2015

ORDER : (Per Justice R. Subhash Reddy)

This writ petition is filed, questioning the proceedings initiated under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act (hereinafter referred to as 'the SARFAESI Act') and the consequential e-auction notice dated 21.02.2015, issued for sale of land admeasuring Ac.2-00 cts, covered by R.S.No.124/2, situated at Bommuru village of Rajahmundry Mandal, East Godavari District.

M/s.Soubhagya Projects (P) Ltd. has availed credit facility from Andhra Bank, Danavaipeta Branch, Rajahmundry and defaulted in repaying the loan and the amount due was Rs.10,19,27,082/- as on 06.01.2015. Petitioner stood as guarantor for the said loan by mortgaging the property admeasuring Ac.2-00 cts, covered by R.S.No.124/2, situated at Bommuru village of Rajahmundry Mandal, East Godavari District. In view of defaults committed by the principal borrower, proceedings are initiated under the SARFAESI Act and e-auction notice is issued for sale of the secured asset. At that stage, the proceedings are questioned only on the ground that the property mentioned in the e-auction notice is an agricultural land covered by R.S.No.124/2 and the same is exempted from sale, under Section 31(i) of the SARFAESI Act.

Counter affidavit is filed denying the allegations made by the petitioner. In the counter affidavit, it is categorically stated that on the application filed by the petitioner, the aforesaid land is converted from agricultural land into non-agriculture purposes and the competent authority i.e. the Revenue Divisional Officer, Rajahmundry, has issued proceedings No.D.Dis.H/2027/2008, dated 15.05.2008, to that

effect and a copy of the same is also placed on record.

In this writ petition, it is mainly contended by the learned counsel for petitioner that conversion of land is subject to certain conditions and as the said conditions are not complied with, it cannot be treated as non-agricultural land. On the other hand, it is submitted by the learned counsel for respondent that as the competent authority has issued orders for conversion of land, the land stands converted and the petitioner is not entitled for exemption under Section 31(i) of the SARFAESI Act.

Conversion of agricultural land for non-agriculture purposes is governed by the provisions of The Andhra Pradesh Agricultural Land (conversion for non-agricultural purposes) Act, 2006. A perusal of the orders issued by the Revenue Divisional Officer, Rajahmundry shows that the petitioner has applied for conversion of the land in question and on such application, as the competent authority has found that the request of the petitioner is in conformity with the provisions of the aforesaid Act, issued orders subject to certain terms and conditions. Although it is submitted by the learned counsel for petitioner that as the said conditions are not complied with the land is to be treated as non-agricultural land, we are not convinced to accept the said submission, for the reason that from the moment orders are issued by the competent authority, the agricultural land stands converted into non-agricultural land, and as such, the petitioner is not entitled for exemption under Section 31(i) of the SARFAESI Act.

For the aforesaid reasons, we do not find merit in this writ petition and it is accordingly dismissed. No costs.

Pending miscellaneous applications, if any, shall stand closed.

R. SUBHASH REDDY, J

A.SHANKAR NARAYANA, J

29th July 2015

ajr