

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

WRIT PETITION No.27029 of 2015

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

This writ petition is filed by the petitioners seeking the following relief:

“.....Writ, order or direction in the nature of Mandamus or otherwise declaring the non-consideration of the representation of the petitioners dated 14.08.2015 for One Time Settlement is violation of the guidelines issued by the Reserve Bank of India, against principles of natural justice, violative of Article 14 of the Constitution of India and is *non est* in law and consequently set aside the said notice under Section 13(4) of the SARFAESI Act, dated 17.03.2014 and Tender cum Auction Sale Notice dated 13.07.2015 of the second respondent while directing the second respondent to consider the O.T.S. application of the petitioners dated 14.08.2015 and be pleased to pass such other order or orders

2. The petitioners have obtained Housing loan from the 2nd respondent – Repco Home Finance Limited. As they have defaulted in repayment of the loan amount, 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”), the 2nd respondent has issued a demand notice dated 24.12.2013 under Section 13(2) of the SARFAESI Act, demanding to pay a sum of Rs.13,44,273/- as on 20.12.2013 together with interest and costs from 21.12.2013 onwards. As the said demand notice was not complied with, possession notice dated 17.03.2014 under Section 13(4) of the SARFAESI Act was issued. The petitioners have challenged the said notice by way of filing

S.A.No.310 of 2014 before the Debts Recovery Tribunal, Hyderabad, under Section 17 of the SARFAESI Act, along with I.A.No.1545 of 2014 seeking stay of all further proceedings pursuant to the possession notice dated 17.03.2014. The Tribunal has passed interim order dated 16.04.2014 granting stay on condition of the petitioners depositing a sum of Rs.2,50,000/- within a period of eight weeks, out of which a sum of Rs.1,50,000/- was directed to be deposited within four weeks from the date of the order and the balance sum of Rs.1,00,000/- was directed to be deposited within four weeks thereafter. Though the petitioners have deposited the 1st instalment of Rs.1,50,000/-, they failed to deposit the 2nd instalment of Rs.1,00,000/- within the stipulated time. The application in I.A.No.3106 of 2014 filed by the petitioners seeking extension of time for deposit of the said amount was dismissed for default on the ground that there is no Presiding Officer for the Debts Recovery Tribunal, Hyderabad. Pursuant to the said order, when the 2nd respondent was about to take further steps, the petitioners have filed the present writ petition.

3. This Court, while issuing notice before admission, by order dated 25.08.2015, granted stay of auction pursuant to the impugned Tender-cum-Auction Sale Notice dated 13.07.2015, on condition of the petitioners depositing a sum of Rs.3,50,000/- by 26.08.2015 and failing to deposit such amount by the said date, it was left open to the 2nd respondent to proceed with the proposed auction.

4. When the matter is called for hearing, it is submitted by the learned counsel for petitioners that the petitioners have already complied with the order dated 25.08.2015 by depositing a sum of Rs.3,50,000/-.

5. Inasmuch as the petitioners have already deposited a sum of Rs.1,50,000/- pursuant to the interim order dated 16.04.2014 passed by the Debts Recovery Tribunal, and a further sum of Rs.3,50,000/- pursuant to the interim order dated 25.08.2015 passed by this Court, and in view of the pendency of S.A.No.310 of 2014 before the Tribunal, we deem it appropriate to dispose of the writ petition

directing the Debts Recovery Tribunal, Hyderabad, to dispose of S.A.No.310 of 2014 as expeditiously as possible, preferably within a period of two months from today, with a further direction to the 2nd respondent not to take any steps for sale of the secured asset till disposal of S.A.No.310 of 2014.

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

JUSTICE R. SUBHASH REDDY

JUSTICE A.SHANKAR NARAYANA

03.12.2015.

Msr

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