IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

WRIT PETITION Nos.21169, 20221 and 20914 of 2015

WRIT PETITION No.21169 of 2015

Between:

Kondaiah Chowdary and another

…Petitioners

and

Union Bank of India and another

…Respondents

DATE OF JUDGMENT PRONOUNCED: 06.08.2015

SUBMITTED FOR APPROVAL:

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

1. Whether Reporters of Local newspapers may be allowed to see the Judgments? Yes/No

2. Whether the copies of judgment may be marked to Law Reporters/Journals? Yes/No

3. Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment? Yes/No

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

WRIT PETITION Nos.21169, 20221 and 20914 of 2015

COMMON ORDER: (per RSR, J)

As the subject matter of these three Writ Petitions is common, the Writ Petitions are being disposed of by this common order.

Writ Petition No.21169 of 2015 is filed by the borrowers of the first respondent bank seeking to declare the action of the first respondent in conducting auction of the secured asset on 30.03.2015 and issuing sale certificate, dated 24.04.2015 in respect of the house property bearing No.16-2-753/38 in plot No.38, in Survey No.313 situated at Revenue Board Colony, Gaddiannaram, Malakpet, Hyderabad, as illegal and arbitrary.

Writ Petition No.20221 of 2015 is filed by the petitioners in Writ Petition No.21169 of 2015, seeking to declare the notice, dated 10.06.2015 issued by the first respondent bank in respect of the aforesaid house property, as illegal and arbitrary.

Writ Petition No.20914 of 2015 is filed by the tenant of the aforesaid house property, seeking to declare the action of the respondents in taking steps to evict it forcibly from the aforesaid house property, as illegal and arbitrary.

The petitioners in Writ Petition Nos.21169 of 2015 and 20221 of 2015 are husband and wife. They have borrowed Rs.50,00,000/- and Rs.46,50,000/- respectively from the first respondent bank on 26.03.2006 by executing all necessary loan documents and by depositing title deeds of the property i.e. building bearing Door No.16-2-753/38, plot No.38 in Survey No.313, Revenue Board Colony, Malakpet, Hyderabad. When the petitioners have committed default in repayment of the loan amounts as per the agreed terms and conditions, their loan accounts were classified as NPA as per RBI norms and the first respondent Bank has taken further steps under Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'the Act') and thereby, issued demand notices under Section 13(2) of the Act and also possession notices under Section 13(4) of the Act. Thereafter, the property was put to auction on 30.03.2015 and the second respondent, who is the auction purchaser, has deposited the entire money.

When the sale notices were issued, the petitioners in Writ Petition Nos.21169 and 20221 of 2015 have questioned the same before the Debts Recovery Tribunal, Hyderabad, by way of filing S.A.Nos.808 and 809 of 2014 and obtained conditional interim stay orders. As the petitioners have not complied with the condition, the first respondent bank proceeded with the auction and sold the property in question by way of auction on 30.03.2015.

In Writ Petition Nos.21169 and 20221 of 2015, the petitioners who are the borrowers of the first respondent bank, have questioned the action of the first respondent bank in auctioning the property in question conducted on 30.03.2015 and issuing the sale certificate in favour of the second respondent, auction purchaser, mainly on the ground that there was no proper valuation of the property in question before auction was conducted. The tenant of the property in question has also filed Writ Petition No.20914 of 2015 alleging that the first and second respondents were taking steps for its eviction forcibly.

It is the case of the first respondent bank that after taking possession of the property in question, the petitioners have trespassed into the same and therefore, a complaint was lodged before the police.

In view of the factual disputes raised by the petitioners, it is not necessary to go into the merits of the case obviously in view of the pendency of S.A.Nos.808 and 809 of 2014 before the Debts Recovery Tribunal. If the petitioners want to assail the sale conducted on 30.03.2015 on the ground that the first respondent bank accepted the bid submitted by the single bidder and the same is in contravention of the provisions of the Act and the Rules made thereunder, they can raise such question in the pending Securitization Applications. When the petitioners, who are original borrowers, were defaulted in complying with the interim order passed by the Tribunal and when the Securitization Applications are pending, they could not have filed these Writ Petitions by way of parallel proceedings, questioning the further steps taken by the respondents. In view of the pendency of the Securitization Applications, it is open to the petitioners to take suitable steps therein for amendment, if necessary by impleading necessary parties. Therefore, the petitioners are not entitled to the reliefs sought in these Writ Petitions.

Granting liberty to the petitioners to raise factual disputes before the Tribunal in the pending Securitization Applications, these three Writ Petitions are dismissed.

Miscellaneous Petitions, if any, pending in these Writ Petitions shall stand closed. No order as to costs.

R.SUBHASH REDDY, J

6th AUGUST, 2015.

A.SHANKAR NARAYANA, J

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