<u>Company Application Nos.783 to 786 of 2016
in C.P.No.414 of 2014</u>

RAJIV SHAKDHER, J.

<u>Company Application Nos.783 and 784 of 2016</u>

1. These applications are filed by one Mr.K.S.G.Kumar, President, I.N.T.U.C. The applicant claims to represent workers of Sree Renuka Textile Mills Limited.

1.1. The prayer made in C.A.No.783 of 2016 is as follows:

> "... to stay the e-auction notice published by the 2nd respondent on 31.07.2016 in the Hindu news paper and auction to be held on 09.09.2016, pending disposal of the above C.P.No.413/2014, before this Honourable Court...."

1.2. The prayer made in C.A.No.784 of 2016 is as follows:

> "...to set aside the order passed in claim application in C.A.No.41/2016, dated 23.03.2016 pending disposal of the above C.P.No.413/2014 before this Honourable Court...."

2. Via C.A.No.783 of 2016, the applicant seeks to stay the auction notice dated 31.07.2016 issued by respondent No.2, ie., IDBI Bank Limited.

3. It appears that the cause title of the company in liquidation has been described as Sree Renuga Textile Mills Limited. Counsel

for respondent No.2 says that there is a mistake in the cause title. Learned Senior Counsel appearing for the applicant affirms that there is an error.

4. Counsel for respondent No.2 says that his client, as is evident on a perusal of the auction notice, seeks to sell assets, which fall in Lot No.1 and 2. It is stated that while Lot No.1 comprises of Plant and Machinery, which are assets of the company in liquidation, Lot No.2 comprises of land belonging to the ex-management and it is, thus, not owned by the company in liquidation.

5. In these circumstances, the captioned applications are disposed of with a direction that if the plant and machinery, which is part of Lot 1, is sold, the proceeds realised, will be distributed in accordance with the extant provisions of law including Section 19(19) of the Securitisation and Re-construction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short, "SARFAESI Act, 2002") read with Section 529A of the Companies Act, 1956 (in short, "1956 Act").

6. Clearly, this direction will not apply to Lot 2, which comprises of land belonging to the ex-management.

7. To be noted, Mr.Ramaiah, learned Official Liquidator (OL), affirms this position.

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8. The prayer made in C.A.No.785 of 2016 is as follows:

> "... to directing the 2nd respondent Consortium herein to settle the Provident Fund, ESI, Gratuity and pending salaries dues to the workers pending disposal of the above C.P.No.414/2014 before this Honourable Court..."

8.1. The prayer made in C.A.No.786 of 2016 is as follows:

> "...to stay the e-auction notice published by the 2nd respondent Consortium on 27.07.2016 in the Hindu news paper, auction to be held on 07.09.2016, pending disposal of the above C.P.No.414/2014 before this Honourable Court...."

9. These are applications, whereby, stay of auction notice published by respondent No.2, i.e., State Bank of India (Consortium) is sought and a direction is sought to settle the dues of the workmen pertaining to Provident Fund, ESI, Gratuity and salaries.

10. The impugned auction notice, which is at page 88 of the

typed set of documents, clearly indicates that three items are being sold, all of which, comprise of immovable property belonging to the company in liquidation, i.e., Shri Renuga Textiles Limited.

11. The auction notice also indicates that respondent No.2 is conducting the said auction in exercise of its powers under the SARFAESI Act, 2002.

12. In these circumstances, I am of the view that the stay of the auction is not called for and that the only direction that can be issued is that if and when the sale proceeds, if any realised, via the auction, shall be distributed in accordance with the extant provisions of law including the provisions of Section 19(19) of the SARFAESI Act, 2002 and Section 529A of the 1956 Act.

13. The learned O.L., who is present in Court will adjudicate upon the claims of the workers, once claims are invited and filed, and accordingly, furnish the details to respondent No.2.

14. The captioned applications are disposed of in the aforesaid terms.

07.09.2016

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RAJIV SHAKDHER,J.

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07.09.2016