

W.M.P.No.17444 of 2016
in
W.P.No.7969 of 2016

S.MANIKUMAR, J.
AND
N.AUTHINATHAN, J.

ORDER
(made by S.MANIKUMAR, J.)

Material on record discloses that on 17.02.2016, the Debts Recovery Tribunal - III, Chennai in SI.A.No.251 of 2016 in S.A.No.89/2016, has passed the following order:

"SA No.89/2016 17.02.2016

This case is taken up for hearing on a mentioning being made by the Ld. Counsel for the Applicant. This SA is filed challenging the E-Auction Sale Notice dated 01.02.2016 issued by the respondent bank fixing the E-Auction sale on 10.03.2016, for recovery of sum of Rs.1,44,28,661/- along with S.I.A.Nos.250/2016 and 251/2016 for urgent hearing and for stay respectively.

S.I.A. No.250/2016 is allowed and hence S.I.A.No.251/2016 is taken up for hearing.

Heard the Ld. counsel for the applicant. In the circumstances pleaded, interim stay of all further proceedings pursuant to the E-Auction Sale Notice dated 01.02.2016 is granted subject to the condition of applicant remitting a sum of Rs.30,00,000/- to the credit of loan account on or before 08.03.2016. In the

event the applicant fails to comply with the above condition, the interim stay granted shall stand automatically vacated and the respondent bank will be entitled to proceed further in accordance to law, including the contemplated sale scheduled on 10.03.2016.

Issue notice to the respondent bank. Private notice is permitted. Call on 17.03.2016 for reporting compliance or otherwise and for filing AOS by the applicant.

Sd/-
PO"

2. Challenging the same, the borrower has filed W.P.No.7969 of 2016. Adverting to the rival submissions, at paragraph Nos.6 and 7, a Hon'ble Division Bench of this court in W.P.No.7969 of 2016 dated 09.03.2016, has passed the following order:

"6. Having considered all the facts, particularly, when the petitioner is ready and willing to pay the outstanding amount and also has paid a sum of Rs.17 lakhs against the total outstanding dues of Rs.1,44,28,661/-, we deem it fit and proper to reduce the amount of Rs.30 lakhs to Rs.15 lakhs, which shall be payable within a period of two weeks from the date of receipt of a copy of this order. The auction proposed to be held on 10 March 2016 shall remain stayed, till the matter is taken up for further hearing by the Debts Recovery Tribunal - III, Chennai.

7. With the aforestated observation and direction, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed."

3. After the disposal of the writ petition, contending inter alia that there were difficulties in generating funds, the borrower has filed the instant writ miscellaneous petition on 01.06.2016, for extension of time for three months, for compliance of the order dated 09.03.2016 in W.P.No.7969 of 2016.

4. Three months time sought for in the above miscellaneous petition has expired and thus the instant writ miscellaneous petition has become infructuous.

5. However, Mr.Edwin Prabhakar, learned counsel for the petitioner, submitted that during the period of extended time sought for in W.M.P.No.17444/2016, the bank had come forward with a one time settlement and on account of the same, order dated 09.03.2016 in W.P.No.7969 of 2016, could not be complied with.

6. Refuting the same, Mr.R.Imayavaramban, learned counsel for the bank, submitted that the offer of one time settlement has

been canceled. Though Mr.Edwin Prabhakar, learned counsel for the petitioner submitted that some indulgence be granted by this court in making payments on installment basis, as per the one time settlement offer, in the light of the rebuttal by the learned counsel for the bank, no direction can be granted. Further, time sought for in W.M.P.No.17444/2016, has already expired.

For the reasons stated supra, writ miscellaneous petition is dismissed.

(S.M.K., J.) (N.A.N., J.)
03-11-2016

Asr

S.MANIKUMAR, J.
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