

**HON'BLE SRI JUSTICE R.KANTHA RAO  
AND  
HON'BLE DR. JUSTICE B. SIVA SANKARA RAO**

**Writ Petition Nos.13178, 13197, 13179  
&13196 of 2016**

**COMMON ORDER:** *(per Hon'ble Dr. Justice B.Siva Sankara Rao)*

The respective writ petitioners are the borrowers under Section 2(f) of the SARFAESI Act, 2002 (for short 'the Act') from having availed financial assistance from the respondent bank, defined under Section 2(c) of the Act, for the default committed the loan account is classified as non-performing asset as per section 2(o) of the Act and the bank initiated securitization measures and after issuance of notice under Section 13(2) of the Act with 60 days time to liquidate for non-liquidation of the secured debt, the bank issued notice of taking possession of the secured asset under Section 13(4) of the Act as part of the security measures for recovery of the debt and impugning the same the respective four writ petitioners maintained SA Nos.497 to 500 of 2015 under Section 17 of the Act before the Debt Recovery Tribunal (for short 'DRT'), Hyderabad. It is the further submission that there was an interim application seeking stay of all further proceedings in pursuance of the possession notice supra issued by the bank and the same is still pending. It is further submission that in the mean time the respondent-Bank, who is the secured creditor served sale notice dated 3.3.2016 informing that the security interest as defined under Section 2 (1) (z) (f) of the Act is going to be put to sale by way of e-auction on 20.04.2016 and consequently the petitioners-borrowers filed respective SAs supra seeking stay of the e-auction proposed to be conducted and also sought for amendment of the prayer in the main SAs so as to set aside the sale e-auction notice and those applications were listed before the Presiding Officer of the DRT,

Kolkata, on 19.4.2016. The petitioners-borrowers supra approached the Registrar of the DRT, Hyderabad on 18.4.,2016 to have confirmation of the sitting to be held at Kolkata for the hearing on 19.4.2016 or any change. They were informed by the Registrar that there is a strike of the Advocates practicing in the DRT, Kolkata and the Presiding Officer is also availing leave on 18<sup>th</sup> and 19<sup>th</sup> of April, 2016 and thereby, the files are not being sent for hearing at Kolkata on 19.4.2016. Thus, no hearing has been taken place. It is the further submission that the proposed e-auction is going to be held as per the e-auction notice issued by the bank under Rule 8 (6) of the S.I. (E) Rules, 2002 and the respective petitions have no other remedy but for maintaining the writ petitions to seek stay of the proposed e-auction fixed to be held on 20.4.2016.

Heard Sri Vedula Srinivas, learned counsel appearing for the petitioners in all the writ petitions taken up for common hearing and also heard Sri Krishnam Raju, learned Standing Counsel appearing for the respondent-Bank.

Perused the material on record. Having regard to the above factual matrix, all the writ petitions are disposed of by giving two months time from today to the respective petitioners-borrowers to workout their remedies against the e-auction notice in pending SA Nos.497 to 500 of 2015 and connected petitions and in the meantime the bank and the Recovery Officer and any others concerned shall though proceed further in respect of the e-auction proposed to conduct the sale of the secured assets by e-auction, not to collect 75% other than 25% of the bid amount from the highest bidder and also not to confirm the sale and not to issue sale certificate.

All the writ petitions are accordingly disposed of. No costs.

Miscellaneous applications, if any, pending shall stand

**closed.**

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**R.KANTHA RAO, J**

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**DR. B. SIVA SANKARA RAO, J**

***20<sup>th</sup> April, 2016***  
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