THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

AND

THE HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

WRIT PETITION No.5587 of 2016

ORDER: *(Per Hon'ble Sri Justice Nooty Ramamohana Rao)*

The 2 petitioners herein sought for a Writ of Mandamus for declaring the action of the respondent/Bank in proposing to conduct the auctions on 22.02.2016 pursuant to the auction notice dated 14.01.2016, which is published on 19.01.2016 as illegal and unjust.

In view of the order, which we proposed to pass today after hearing Sri Ch. Srinivas, learned counsel for the petitioners and Sri Sai Rama Krishna, learned counsel for the respondent/Bank, the necessity to record in great detail the facts is obviated.

It is not in dispute that the petitioners have availed financial assistance from the respondent/bank, but committed default in repaying the debt. As a result, the respondent/Bank has declared the debt as Non Performing Asset (NPA) and hence, initiated the securitization measures contemplated and provided for under Section 13 of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'the SARFAESI Act'). As a part of the said exercise, particularly, contemplated and provided for under sub Section 4 of Section 13 of the SARFAESI Act, the secured assets were sought to be put to sale by way of auction. Hence, the notice of sale is drawn on 14.01.2016 and it was got published in the leading newspaper of 19.01.2016 and bids and e-auctions were slated to be received on 22.02.2016. Very unfortunately, e-auctions have not produced any results while 3 bidders have filed their bids. The highest bids have, therefore, been accepted by the respondent/Bank as the said bids are not less than the upset price fixed. It is represented before us by Sri Sai Rama Krishna that the highest bidder(s) upon being declared as such, have also deposited the balance 15% of their bid amount, which coupled with 10% EMD worked out to first installment of 25% liable to be deposited by them. For depositing the balance 75% of the bid amount, the best bidder(s) were given 15 days time.

It is apprehended by the Bank that if for any reason the present process of sale is derailed, the whole process of realising the debt due from the petitioners would become nearly impossible. At that stage, Sri Srinivas, learned counsel for the petitioners has come up with a very attractive proposal. The petitioner would deposit such amount which would be not less than 50% of the outstanding liability to the respondent/Bank on or before 30.03.2016 and the balance 50% together with the incidental expenses incurred by the Bank so far for undertaking securitization measures will be deposited on or before 30.04.2016. This offer has come as the petitioners feel that the bids have not fetched true and correct market value for the respective assets which have gone under the hammer. At the same time, we are conscious that a transparent procedure such as e-bids have not evoked response and 2 out of 4 assets offered have not evoked bids at all also. Therefore, we direct the respondent/Bank not to confirm the sale of the assets, for which bids have been received by them, until 02.05.2016. In case, the petitioners fail to deposit the 1st instalment of one half of the outstanding liability by 30.03.2016 or they fails to deposit the balance 50% of the outstanding liability together with the incidental expenses by 30.04.2016, it shall be open to the Bank to confirm the sale in favour of the best bidder(s) and also deliver possession to such bidder(s) on or after 02.05.2016.

With this observation, this writ petition stands disposed of.

Consequently, miscellaneous petitions, if any shall stand closed. No costs.

JUSTICE NOOTY RAMAMOHANA RAO

JUSTICE Dr. B.SIVA SANKARA RAO

24.02.2016

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