HON'BLE SRI JUSTICE SANJAY KUMAR
AND
HON'BLE Dr. JUSTICE B.SIVA SANKARA RAO

WRIT PETITION No.29855 of 2015

ORDER: (per Hon'ble Sri Justice Sanjay Kumar)

This Writ Petition is filed challenging the possession notice dated 03.09.2015 issued by the respondent bank. By order dated 14.09.2015 this Court granted interim stay of further proceedings pursuant to the impugned possession notice dated 03.09.2015 subject to the petitioner depositing one-fourth of the amount due within a period of four (4) weeks. We are now informed that this order has been complied with. However, the only ground raised by the petitioner in support of his challenge to the possession notice is that he was not issued any prior notice under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the SARFAESI Act), and that the possession notice dated 03.09.2015 was straight away issued to him. This allegation is however proved to be incorrect in the light of the counter affidavit filed by the respondent bank along with supporting material documents. The acknowledgment card filed indicates receipt of the demand notice dated 11.06.2015 issued by the respondent bank to the petitioner under Section 13(2) of the SARFAESI Act. Miss N.Anula, learned counsel representing Mr.Mangena Sree Rama Rao, learned counsel for the petitioner, would however state that the petitioner is anxious to liquidate his liability to the respondent bank. As the respondent bank has not taken further steps owing to the interim order dated 14.09.2015 and is yet to issue a sale notice under Rule 8(6) of the Security Interest(Enforcement) Rules, 2002, we are of the opinion that the petitioner can be given an opportunity to prove his *bona fides* by clearing the entire liability of the respondent bank. Allowing him to do so at this stage would also prevent the bank from incurring expenses and the inconvenience of going through the procedures contemplated under the SARFAESI Act, and the Security Interest(Enforcement) Rules, 2002, including the cost of publication in newspapers.

The Writ Petition is accordingly disposed of leaving it open to the petitioner to discharge the entire liability due to the respondent bank within two months from today, i.e. on or before 22.08.2016. The petitioner shall deposit 50% of the outstanding dues as informed to him by the respondent bank within one month from today i.e. on or before 21.07.2016, being not less than Rs.75,000/-(Rupees seventy five thousand only). The balance outstanding dues, as determined and informed to the petitioner by the respondent bank, shall be paid on or before 22.08.2016. In the event the petitioner fails to make payment as stipulated above, be it in respect the first instalment or the second instalment, this order shall stand withdrawn and the respondent bank would be at liberty to proceed in the matter in accordance with law.

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

JUSTICE SANJAY KUMAR

Dr.JUSTICE B. SIVA SANKARA RAO

Dt.21.06.2016
vvr.