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

WRIT PETITION No.13716 of 2016

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

The petitioner is the borrower within the meaning of Section 2(1)(f) Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the Act') and having availed the financial assistance from the 1st respondent, the secured creditor, and for the defaults committed in payment of the amounts, the account is classified as non-performing asset as defined under Section 2(o) of the Act. The Bank after exhausting the remedies by issuing demand notice and possession notice, issued a notice for conducting e-auction fixing a date on 22.04.2016. It is the contention of the learned counsel for the petitioner that he already filed S.A. No.160 of 2016 impugning this e-auction notice-cum-sale notice dated 19.03.2016 before the Debt Recovery Tribunal, Hyderabad and there is no regular officer and there is an FAC officer from Calcutta and that the advocates are boycotting the Courts at Calcutta and there is no likelihood of sitting for the taking of the matters and in the meantime if the bank is allowed to conduct the auction of the security interest on 22.04.2016, the rights of the petitioner will be jeopardized.

2) Heard the learned counsel for the petitioner and perused the material on record.

3) The writ petition itself can be disposed of, instead of keeping it pending, before admission and by ordering notice to the 1st respondent-Bank as the only grievance is if reasonable time may be afforded to work out his remedies in the pending S.A. No.160 of 2016 before the Debt Recovery Tribunal.

4) Having regard to the above and in the result, the writ petition is disposed of while permitting the 1st respondent-Bank to proceed with the e-auction scheduled on 22.04.2016 including collection of 25% of the bid amount from the auction purchaser, however not to collect the remaining 75% of the bid amount and not to confirm the sale for a period of two months from today and in the mean time without prejudice the rights in S.A. No.160 of 2016 of the petitioner pending before the Debt Recovery Tribunal, the petitioner shall pay a sum of Rs.1,00,000/- to the secured creditor/1st respondent Bank. If the petitioner failed to pay said amount of Rs.1,00,000/- within two months as stipulated above and if failed to obtain any interim orders in the pending S.A. No.160 of 2016, meantime the 1st respondent-bank is at liberty to proceed further by collecting remaining 75% of the bid amount and confirm the e-auction and issue sale certificate in favour of the highest bidder without any further reference to the Court.

5) Consequently, miscellaneous petitions in the writ petition pending, if any, shall stand closed.

R.KANTHA RAO, J

Dr.B.SIVA SANKARA RAO, J

21-04-2016
N.B: Issue C.C. by tomorrow
(B/o) Ksh